

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE

JESSICA CLIPPINGER, on behalf of	)	
herself and all others similarly situated,	)	
	)	
Plaintiff,	)	Case No.:
	)	
v.	)	
	)	
STATE FARM MUTUAL	)	
AUTOMOBILE INSURANCE CO.,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant State Farm Mutual Automobile Insurance Company (“State Farm”), removes *Clippinger v. State Farm Mutual Automobile Insurance Co.*, No. CT-1844-20, from the Circuit Court of Shelby County, Tennessee for the Thirtieth Judicial District at Memphis to the United States District Court for the Western District of Tennessee on the ground that this Court has diversity jurisdiction pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. §§ 1332(d), 1441(a)-(b), and 1453. In support of removal, State Farm states as follows:

**BACKGROUND**

1. On May 8, 2020, Plaintiff Jessica Clippinger (“Plaintiff”) filed a Complaint against State Farm Property and Casualty Company, a non-existent entity, in the Circuit Court of Shelby County, Tennessee for the Thirtieth Judicial District at Memphis, CT-1844-20. On June 3, 2020, after becoming aware that she had named a non-existent entity as the defendant, Plaintiff filed a First Amended Complaint against State Farm in which she alleges Breach of Contract, Breach of the Covenant of Good Faith and Fair

Dealing, and Declaratory Judgment on behalf of herself and all those similarly situated (“State Court Action”). (See First Amended Complaint (“FAC”), attached as **Exhibit A**.)

2. Although Plaintiff may have served the Summons and the First Amended Complaint on the Tennessee Commissioner of Insurance, no return of service has yet been filed.

3. Plaintiff claims, individually and on behalf of the putative class, that State Farm breached policies of insurance by undervaluing vehicles deemed a total loss.

4. Plaintiff’s Complaint sets forth three claims for relief: (i) breach of contract; (ii) breach of the covenant of good faith and fair dealing; and (iii) declaratory judgment. (Ex. A, FAC ¶¶ 37-52.)

5. Plaintiff seeks class certification and appointment of Plaintiff as the class representative and her attorneys as class counsel. (*Id.* ¶¶ 29-36.)

6. Plaintiff also seeks an award of compensatory damages, injunctive relief, attorneys’ fees, and costs. (*Id.*, Wherefore Clause.) Plaintiff’s Complaint does not quantify the amount of damages sought, although she alleges that the compensatory damages she seeks do not exceed \$75,000 and the aggregate compensatory damages are below \$5,000,000.<sup>1</sup> (See *generally* FAC ¶ 8.)

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<sup>1</sup> Plaintiff does not disclaim any damages greater than the jurisdictional amounts; she only estimates the amount of damages for her and the proposed class. Even a disclaimer regarding the amount of recoverable damages would not prevent removal where, as here, defendant can demonstrate that the alleged damages are “more likely than not” to meet the amount in controversy requirement. *Smith v. Nationwide Prop. & Cas. Ins. Co.*, 505 F.3d 401, 407 (6th Cir. 2007). Furthermore, the United States Supreme Court holds that a class action plaintiff cannot preclude CAFA jurisdiction even if she stipulates that the class she seeks to represent will not seek damages that exceed \$5 million in total. *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 590 (2013). Plaintiff’s damages estimate is irrelevant.

7. State Farm denies all liability and damages, and it denies that Plaintiffs may certify a class pursuant to Rule 23 of the Federal Rules of Civil Procedure.

### **GROUND FOR REMOVAL**

#### **I. REMOVAL IS TIMELY.**

8. This Notice of Removal is filed within 30 days after the First Amended Complaint was filed on June 3, 2020. Even though it is unclear when or if service of the Summons and First Amended Complaint has been made on the Tennessee Insurance Commissioner, it cannot have been accomplished before June 3, 2020, when the First Amended Complaint was filed. Removal of this action is therefore timely under 28 U.S.C. § 1446(b).

#### **II. THE COURT HAS JURISDICTION OVER THIS ACTION UNDER CAFA.**

9. CAFA reflects Congress's intent to have federal courts adjudicate substantial class-action suits<sup>2</sup> brought against out-of-state defendants. *See* S. Rep. No. 109-14, at 42-43 (2005) ("Senate Report"); H.R. Rep. No. 108-144, at 35-37 (2003). To effectuate this purpose, CAFA expands federal jurisdiction over such class actions by amending 28 U.S.C. § 1332 to grant original jurisdiction where, as here, the putative class contains at least 100 class members, the parties are minimally diverse, and the amount in controversy exceeds \$5 million in the aggregate for the entire putative class, exclusive of interest and costs. 28 U.S.C. § 1332(d)(2).

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<sup>2</sup> A "class action" means "any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action[.]" 28 U.S.C. § 1332(d)(1)(B). Plaintiff asserts her class allegations pursuant to Tennessee's similar class-action rule. (*See* Ex. A, FAC ¶ 29.)

10. By design, CAFA “tracks the general pleading requirement stated in Rule 8(a) of the Federal Rules of Civil Procedure.” *Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 553 (2014). When a defendant seeks removal under CAFA, it need only file a notice of removal in the district court “containing a short and plain statement of the grounds for removal.” 28 U.S.C. § 1446(a). Thus, “by borrowing the familiar ‘short and plain statement’ standard from Rule 8(a),” Congress “intended to ‘simplify the “pleading” requirements for removal’ and to clarify that courts should ‘apply the same liberal rules [to removal allegations] that are applied to other matters of pleading.’” *Id.* at 553 (quoting H.R. Rep. No. 100-889, at 71 (1988)).

11. This putative class action satisfies all the jurisdictional requirements under CAFA. Specifically, based on the allegations in the First Amended Complaint, State Farm’s investigation, and the attached declaration, (1) the parties are minimally diverse; (2) the proposed class consists of 100 or more members; (2) the amount in controversy exceeds the \$5,000,000 jurisdictional threshold; (4) the primary defendants are not States, State officials, or other governmental entities; and (5) no CAFA exception applies here. *See* 28 U.S. C. § 1332(d).

**A. The Parties are Minimally Diverse.**

12. The first CAFA requirement—that the parties be minimally diverse—is satisfied because a least one putative class member is a citizen of a different state than at least one defendant. 28 U.S.C. § 1332(d)(2).

13. Here, Plaintiff alleges that she is a resident of Shelby County, Tennessee and “citizen of the state of Tennessee.” (Ex. A, FAC ¶ 11.) Plaintiff further alleges that the putative class consists of “[a]ll persons insured by a contract of automobile insurance issued by State Farm to a Tennessee resident, and who, from the earliest allowable time

through the date of resolution of this action, received a first-party total loss valuation and payment that included a downward adjustment premised on a ‘Typical Negotiation Adjustment’ or similar adjustment.” (*Id.* ¶ 29.)

14. State Farm is an insurance company organized under the laws of Illinois with its principal place of business in Illinois. (*See id.*, ¶ 12; Decl. of Jay Thorpe (“Thorpe Decl.”) ¶ 3, (attached as **Exhibit B**); *see also Ljuljdjuraj v. State Farm Mut. Auto. Ins. Co.*, 774 F.3d 908, 909 (6th Cir. 2014) (“State Farm is a citizen of Illinois”).

15. Accordingly, because there is at least minimal diversity between the parties, the first CAFA requirement is satisfied. *See* 28 U.S.C. § 1332(d)(2).

**B. The Putative Class Size Exceeds 100 Members.**

16. The second CAFA requirement—that the putative class consists of at least 100 members—also is met here.

17. Plaintiff seeks certification of the following putative class:

All persons insured by a contract of automobile insurance issued by State Farm to a Tennessee resident, and who, from the earliest allowable time through the date of resolution of this action, received a first-party total loss valuation and payment that included a downward adjustment premised on a “Typical Negotiation Adjustment” or similar adjustment.

(Ex. A, Compl. ¶ 29.)

18. Plaintiff alleges that the putative class is “estimated to be at least one hundred” and is “so numerous that joinder of all such members is impracticable.” (*Id.* ¶ 31.)

19. State Farm uses an electronic platform for storing certain claim information, including information that permits State Farm to identify the number of putative class members within Plaintiff’s proposed class. (Ex. B, Thorpe Decl. ¶ 7.)

20. To estimate the number of claims and insureds within or otherwise implicated by the defined putative class for the period beginning six years before the date Plaintiff filed her First Amended Complaint,<sup>3</sup> State Farm conducted a preliminary search of relevant claims data (the number of first-party total-loss claims in Tennessee for the relevant time period implicated by the putative class) in its electronic database. This search included State Farm insureds (i) who made claims that resulted in a determination of a total loss of the vehicle, (ii) whose Tennessee total loss valuation claims during the pertinent time period is identified as being based on an Autosource report. (*Id.*, ¶ 8.)

21. Based on State Farm’s preliminary search of its electronic database, State Farm has identified 67,262 Tennessee insureds with first-party total loss valuations that employed Autosource reports. (*Id.*, ¶ 9.)

22. More than 90% of the valuation reports generated by Autosource are “instant reports” that use a selling price adjustment or typical negotiation discount. Decl. of Peter W. Herzog III (“Herzog Decl.”) ¶ 3, (attached as **Exhibit C**). Thus, Plaintiff’s class definition includes approximately 60,000 putative class members.

23. Because Plaintiff’s class definition includes more than 100 putative class members, the requisite putative class size is established. *See* 28 U.S.C. § 1332(d)(5)(B).

**C. The Minimum Amount in Controversy Is Satisfied.**

24. The third CAFA requirement—the minimum amount in controversy—is also met. The amount in controversy must exceed the sum or value of \$5 million,

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<sup>3</sup> The statute of limitations for a breach of contract claim under Tennessee law is six years. Tenn. Code. Ann. § 28-3-109(a)(3).

exclusive of interest and costs. 28 U.S.C. § 1332(d)(2). Under CAFA, the claims of individuals comprising a putative class are aggregated. *Id.* § 1332(d)(6).

25. A notice of removal need include only “a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co.*, 574 U.S. at 554. Although a party need not submit evidence with the Notice of Removal, a party may do so. *See id.* (“Evidence establishing the amount is required by § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant's allegation”).

26. Here, Plaintiff alleges that State Farm improperly underpaid proposed class members’ claims by applying “an 8.5% downward adjustment to each of the base values of the comparable vehicles, which were then used to derive the value of Plaintiffs total loss vehicle.” (Ex. A, FAC ¶ 4.) Plaintiff seeks damages for herself and proposed class members that “include the amounts improperly deducted by State Farm from the insureds' payments on the basis of a Typical Negotiation Adjustment.” (*Id.*, FAC ¶ 47; *see also id.*, Wherefore Clause, section e (asking the Court “to enter an order requiring State Farm to pay compensatory damages to Plaintiff and all members of the proposed class in the amount of 100% of the proceeds that State Farm wrongfully deducted from its insureds' payments in the form of Typical Negotiation Adjustments”).)

27. Based on State Farm’s search of its electronic database described above and in the Thorpe Declaration, State Farm has identified 67,262 Tennessee insureds with first-party total loss valuations that employed Autosource reports during the applicable time period. (Ex. B, Thorpe Decl. ¶ 9.)

28. Plaintiff defines the class as including those whose claims payment included a downward adjustment premised on a “Typical Negotiation Adjustment” or

similar adjustment. To determine which of the 67,262 possible members of the proposed class had a negotiation discount would require an individual review of each of the 67,262 Autosource reports, which is impracticable. (*Id.*, ¶ 10.)

29. State Farm's search further revealed that the total Autosource valuations for the insureds with first-party total-loss valuations that employed Autosource reports is \$618,931,197.60. (*Id.*, ¶ 11.)

30. Assuming, *arguendo*, that State Farm's total-loss valuations result in an average downward adjustment of 8.5% as alleged by Plaintiff (Ex. A, FAC ¶ 4), then the total-loss valuations at issue would have totaled \$676,427,538.36 if State Farm had never applied the 8.5% downward adjustment alleged by Plaintiff. (Ex. B, Thorpe Decl. ¶ 12.) The difference between the adjusted and the actual total loss valuations is \$57,496,140.76. (*Id.*)

31. More than 90% of the valuation reports generated by Autosource are "instant reports" that use a selling price adjustment or typical negotiation discount. (Ex. C, Herzog Decl. ¶ 3.)

32. \$57,496,140.76 multiplied by 90% (or 0.9) is \$51,746,706.68. (Ex. B, Thorpe Decl. ¶ 13.)

33. Because an amount of \$51,746,706.68 is "in controversy," CAFA's \$5,000,000 jurisdictional requirement is satisfied. (Ex. C, Herzog Decl. ¶ 4.)

**D. The Primary Defendant Is Not a State, State Official, or Government Entity.**

34. CAFA also requires that the primary defendant not be a state, state official, or other governmental entity against whom the district court may be foreclosed from



ordering relief. 28 U.S.C. § 1332(d)(5)(A). The sole defendant named in the Complaint is State Farm, which satisfies this requirement. (Ex. A, FAC ¶ 12.)

**E. The Exceptions to CAFA Do Not Apply.**

35. Plaintiff bears the burden of establishing that an exception to CAFA applies. *Mason v. Lockwood, Andrews & Newnam, P.C.*, 842 F.3d 383, 389 (6th Cir. 2016).

36. CAFA provides mandatory exceptions to the application of federal jurisdiction under 28 U.S.C. § 1332(d)(4)-(5), and one discretionary exception to federal jurisdiction under 28 U.S.C. § 1332(d)(5).

37. Plaintiff's First Amended Complaint makes clear that none of these exceptions applies. Each of the CAFA exceptions requires, as a starting point, either an in-state defendant, *see* 28 U.S.C. § 1332(d)(3)-(4) (requiring either "significant relief" to be sought from an in-state defendant or requiring the "primary defendant" to be an in-state defendant), or requiring that all claims relate solely to securities or the internal governance of a business entity, *id.* § 1332(d)(9). Here, the only defendant is State Farm, which is a foreign corporation, and none of the claims relates to securities or internal governance. Therefore, no CAFA exception applies.

**VENUE**

38. Venue is proper in the Western District of Tennessee pursuant to 28 U.S.C. § 1391(b)(2) and 1441(a).

**PROCESS, PLEADINGS, AND ORDERS SERVED**

39. In accordance with 28 U.S.C. § 1446(a), copies of the pleadings, court orders, and the docket in the State Court Action are attached as **Exhibit D**.

**NOTICE OF REMOVAL**

40. In accordance with 28 U.S.C. § 1446(a), the filing of a copy of this notice of removal with the clerk of the state court effects the removal of the State Court Action. A copy of the notice of filing of notice of removal filed contemporaneously in the State Court Action is attached as **Exhibit E**.

**FED. R. CIV. P. 81(c)**

41. Pursuant to Fed. R. Civ. P. 81(c), State Farm will file its answer or present its other defenses or objections available under the Federal Rules within seven days after the filing of this Notice of Removal or obtain an extension of time to file such pleadings.

**NO WAIVER**

42. No waiver and no admission of fact, law, or liability, including without limitation the amount of damages, if any, is intended by this notice of removal, and all defenses, affirmative defenses, and rights are reserved.

**CONCLUSION**

43. For the reasons set forth above, State Farm removes this action to the United States District Court for the Western District of Tennessee.

Dated: July 2, 2020.

LEWIS THOMASON

/s/ Christopher L. Vescovo

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**CERTIFICATE OF SERVICE (CM/ECF)**

I HEREBY CERTIFY that on July 2, 2020, I electronically filed the foregoing Notice of Removal with the Clerk of Court using the CM/ECF system.

I FURTHER CERTIFY that counsel for Plaintiff in this action has been served with the foregoing document via email and/or U.S. Mail as follows:

David A. McLaughlin  
RAINWATER, HOLT & SEXTON, P.A.  
254 Court Avenue, Suite 209A  
Memphis, TN 38103

Hank Bates  
Tiffany Wyatt Oldham  
CARNEY BATES & PULLIAM, PLLC  
517 West 7<sup>th</sup> Street  
Little Rock, AR 72201

/s/ Christopher L. Vescovo  
\_\_\_\_\_  
Christopher L. Vescovo

IN THE CIRCUIT COURT OF SHELBY COUNTY TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

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JESSICA CLIPPINGER, on behalf of  
herself and all others similarly situated,

Plaintiff,

v.

STATE FARM MUTUAL  
AUTOMOBILE INSURANCE COMPANY,

Defendant.

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No.: CT-1844-20  
Division: VIII  
JURY DEMANDED

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**AMENDED CLASS ACTION COMPLAINT**

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Plaintiff Jessica Clippinger (“Plaintiff”), brings this class action on behalf of herself and all others similarly situated, by and through undersigned counsel, and for her Complaint against State Farm Mutual Automobile Insurance Company (“Defendant” or “State Farm”) states and alleges as follows:

**INTRODUCTION**

1. This is a class action whereby Plaintiff seeks, for herself and all other similarly situated insured customers or former customers of State Farm, declaratory and injunctive relief, as well as compensatory damages and other appropriate remedies, resulting from State Farm’s common policy and general business practice of using arbitrary and unexplained adjustments to improperly reduce insureds’ total loss valuations and claims payments in violation of its contractual obligations and Tennessee law.

2. When valuing total loss claims for vehicles, it is improper for an automobile insurance company, such as State Farm, to undervalue and underpay the claims by manipulating the data used to value the vehicles. Specifically, under its insurance policies’

terms, State Farm has a contractual duty to pay the actual cash value of a loss vehicle when adjusting total loss claims. This contractual obligation is consistent with applicable Tennessee law, which provides that State Farm must make any deductions from the actual cash value as specific as reasonably possible, and specific and appropriate with regards to the dollar amount when adjusting first-party automobile total loss claims.

3. Notwithstanding its contractual obligations, State Farm systemically fails to pay its insureds the actual cash value of their total loss vehicles by taking improper and unreasonable adjustments that are not fully explained in order to artificially decrease its insureds' recovery.

4. State Farm applied an adjustment for a typical negotiation ("Typical Negotiation Adjustment"), resulting in, on average, an 8.5% downward adjustment to each of the base values of the comparable vehicles, which were then used to derive the value of Plaintiff's total loss vehicle. This 8.5% reduction is wholly arbitrary and not based on any statistical, objective, or verifiable data. The adjustment was applied on each of the comparable vehicles on top of adjustments for differences such as mileage, options, and equipment. The deduction is not as specific as reasonable possible or appropriate as to dollar amount, and no explanation is provided as to the evidentiary basis for the 8.5% reduction. The only purported explanation for the downward adjustments in Plaintiff's multi-page valuation report is a general, nondescript statement buried deep in the document (*see* Exhibit 1 at pp. 8 and 9), providing the reduction is "to account for typical negotiation."

5. Moreover, pursuant to its contracts of insurance, State Farm must consider a vehicle's fair market value when settling a total loss claim for actual cash value. The

Typical Negotiation Adjustment, however, is not based in fact, as it is contrary to the used car industry's market pricing and inventory management. Automobile dealers' internet list prices are priced to market, in part to reflect the intense competition in the context of internet pricing and comparison shopping. Thus, it would be atypical for an insured engaged in a so-called "typical negotiation" to be able to secure a reduction of the online list price—much less an 8.5% reduction. In short, the Typical Negotiation Adjustments are statistically invalid adjustments premised on unknown, unexplained, and factually erroneous assumptions to deliberately undervalue policyholders' total loss claims and understate the fair market value of total loss vehicles.

6. This pattern and practice of undervaluing comparable and total loss vehicles when paying first-party automobile total loss claims, which benefits the insurer at the expense of the insured, is not permitted under the terms of State Farm's policies with its insureds, nor under Tennessee law applicable to insurance contracts.

### **JURISDICTION AND VENUE**

7. Plaintiff and all proposed class members are citizens of the State of Tennessee. State Farm is an insurance company authorized to do business in the State of Tennessee, and, at all relevant times hereto, was engaged in the marketing, sale, and issuance of automobile insurance policies in the State of Tennessee.

8. The compensatory damages being sought by Plaintiff do not exceed \$75,000, and no individual member of the Class would possess a compensatory damage claim in excess of \$75,000. Additionally, the aggregate compensatory damages (in the amount of Typical Negotiation Adjustments wrongfully deducted without itemization or

explanation), claimed by Plaintiff and the Class are below the \$5,000,000 federal jurisdictional threshold under the Class Action Fairness Act (“CAFA”).

9. Accordingly, this Court has jurisdiction over the parties pursuant to Tenn. Code Ann. § 16-10-113, as the policies at issue were issued in this state.

10. Venue is proper pursuant to Tenn. Code Ann. § 20-4-101(a).

### **PARTIES**

11. Plaintiff Jessica Clippinger resides in Shelby County and is a citizen of the state of Tennessee. At all relevant times hereto, Plaintiff was contracted with State Farm for automobile insurance. On or about May 10, 2019, Plaintiff’s insured vehicle was deemed a total loss.

12. Defendant State Farm is an automobile insurance company that owns numerous offices throughout the United States, including the state of Tennessee. Defendant State Farm’s corporate headquarters are located at One State Farm Plaza, Bloomington, IL 61710. Defendant State Farm conducts business in Tennessee through insurance agents and other company personnel.

### **FACTUAL ALLEGATIONS**

#### **A. State Farm’s Improper Valuation of Total Loss Claims.**

13. State Farm sells automobile insurance that provides coverage for property damage done to a vehicle, whether by collision, theft, or other perils.

14. Plaintiff, like all proposed class members, currently has, had, or was covered under a contract of automobile insurance with State Farm. The contract of insurance between Plaintiff, as well as each proposed class member, and State Farm provides coverage for the total loss of a vehicle on the basis of actual cash value or

replacement with another of like kind and quality. The determination of a loss vehicle's actual cash value includes consideration of the vehicle's fair market value. The material policy language for all State Farm policies during the relevant time period is identical or substantially the same.

15. State Farm systematically bases its valuations and payments on total loss claims on manipulated data and reports that do not meet State Farm's duties under its insurance contracts, imposing unreasonable, inappropriate, and unspecific Typical Negotiation Adjustments to artificially reduce the values of comparable vehicles. Moreover, these deductions have no basis in fact and significantly understate the actual cash value of insureds' total loss vehicles.

16. Upon information and belief, to calculate its valuations and claims payments, State Farm obtains a market valuation report from a third-party company called Audatex. Audatex uses a software program called "Autosource Market-Driven Valuation" ("AMDV") to calculate the value of a total loss vehicle. The AMDV software was designed for use by insurance companies and is not an objective industry source used to determine the actual retail cost of used cars.

17. The AMDV software program purports to contain values for comparable vehicles recently sold or for sale in the geographic area of the insured. The valuation reports generated by the AMDV software program also purport to contain values for the loss vehicle based upon the data for the comparable vehicles in the report. Upon information and belief, State Farm instructs Audatex as to what specific data to include in the report as the basis for the valuation, including whether to apply a Typical Negotiation Adjustment to the comparable vehicles.



18. The AMDV report starts with itemized internet sales prices for specified comparable vehicles acquired from various dealers. However, rather than utilizing this actual price data, the AMDV report instead applies a downward adjustment “to account for typical negotiation.” Thus, State Farm is not providing its insureds with the actual cash value or actual cost of the comparable vehicles based upon actual data acquired by State Farm or Audatex. Instead, rather than using the actual data obtained, State Farm wrongly applies a significant deduction based on an invalid and unexplained assumption that the insured can negotiate a lower price. In short, rather than paying actual cash value, State Farm pays less than actual cash value; leaving it to the insureds to make up the difference by engaging in what State Farm describes as a “typical negotiation” and achieving a better deal.

19. State Farm provides no data or explanation of industry practices in its valuation reports to support *any* Typical Negotiation Adjustment, much less one at 8.5%. The only stated reason given for its 8.5% downward adjustment to the list prices of the comparable vehicles is: “The selling price *may* be substantially less than the asking price. When indicated, the asking price has been adjusted to account for typical negotiation according to each comparables [sic] price.” Ex. 1 at p. 8. However, an 8.5% reduction on a used vehicle’s internet price is not typical and does not reflect market realities.

20. Most fundamentally, this assumption is contrary to customary automobile dealer practices and inventory management where list prices are priced to market, in part to reflect the intense competition in the context of internet pricing and comparison shopping. An 8.5% reduction would be atypical and therefore is not proper to include in determining actual cash value. The inclusion of this significant downward adjustment

purportedly premised on a “typical negotiation” is particularly improper in the context of this action—insureds who have suffered a total loss of their vehicle need to procure a replacement and have limited time to search out the atypical opportunity to obtain the below-market deal Defendant presumes to always exist without explanation or discernable, specified or itemized support.

21. Moreover, State Farm provides no explanation as to how it arrived at the amount to be deducted. Instead, State Farm provides an arbitrary deduction, that is not adequately specified nor explained and, as such, cannot be verified. State Farm does not explain whether there is *any* reference source or data that was used in making its assumption much less specify and itemize such data (if it exists).

22. Furthermore, State Farm unreasonably buries its Typical Negotiation Adjustment at the back of the valuation report in an effort to obscure this deduction. For example, the report begins with a “Valuation Detail” section that purports to display the price of each comparable vehicle and then to itemize all “adjustments.” Ex. 1 at pp. 4-6. Although this section displays any adjustments for mileage, options and equipment, it does not disclose the Typical Negotiation Adjustments. Instead, the displayed “Price” is not the actual price data collected by State Farm and Audatex, but rather, it is that price *after* the application of the downward Typical Negotiation Adjustment. In addition, the “Market Overview” section explains the mileage, options and equipment adjustments but makes no mention of the Typical Negotiation Adjustments. *Id.* at pp. 7-8. Rather, the Typical Negotiation Adjustments are hidden at the back of the report in paragraphs detailing the packages and options of the comparable vehicles in a section titled “Comparable Vehicle Details.” *Id.* at 8-9. However, even this section displays a bolded price at the top for each

comparable vehicle, only explaining in non-bolded typeface at the bottom that the bolded price is not the actual price data for the vehicle.

23. Along with hiding this adjustment at the back of the valuation report, State Farm fails to specify the dollar amount of the deduction and fails to fully explain this deduction to insureds. Rather, the insured has to perform a calculation to ascertain the specific dollar amount and/or percentage that was deducted and is left to guess as to what this number was derived from and/or based upon.

24. For Plaintiff, the valuation report used a “Typical Negotiation Adjustment” to reduce the value of each comparable vehicle by, on average, 8.5%. Consequently, this improperly reduced Plaintiff’s recovery under her policy by approximately 8.5%. These reductions bear no relation to the actual fair market value of the comparable vehicles or the loss vehicle. The price of each comparable vehicle used in the Audatex Report was pulled from a dealer internet listing and, therefore, was priced to market. Exhibit 1 at pp. 8-9. The application of these arbitrary, nonitemized, and unexplained Typical Negotiation Adjustments to reduce the value of comparable vehicles artificially reduces the valuation of the loss vehicle to benefit the insurer at the expense of the insured. State Farm’s actions and improper valuations violate its contractual obligations and Tennessee law applicable to insurance settlement practices.

**B. State Farm Undervalued and Underpaid Plaintiff’s Total Loss Claim.**

25. Plaintiff owned a 2017 Dodge Grand Caravan SXT 2WD 4 door passenger van that was deemed a total loss on or around May 10, 2019.

26. Plaintiff made a claim with State Farm for the total loss of her vehicle.

27. State Farm provided a total loss valuation to Plaintiff for her total loss claim. State Farm based its offer upon a valuation report obtained from Audatex using the AMDV software program.

28. State Farm valued Plaintiff's total loss claim at \$14,490.00<sup>1</sup> and paid Plaintiff that amount. State Farm's valuation was based on a market valuation report obtained from Audatex using the AMDV software program. The market valuation report listed values of four different comparable vehicles and applied a Typical Negotiation Adjustment of approximately 8.5% to all four vehicles without itemizing or explaining the basis of the adjustment and/or how the value of the deduction was determined. The use of the Typical Negotiation Adjustment to adjust Plaintiff's total loss claim downward violates the applicable insurance policy, in that Defendant applied the improper adjustment to pay Plaintiff less than the actual cash value of her total loss vehicle.

### **CLASS ACTION ALLEGATIONS**

29. This action is brought by Plaintiff as a class action, on her own behalf and on behalf of all others similarly situated, under the provisions of Rules 23.01 and 23.02 of the Tennessee Rules of Civil Procedure, for declaratory judgment and monetary restitution, plus interest, injunctive relief, costs, and attorney's fees. Plaintiff seeks certification of this action as a class action on behalf of the following class (the "Class"):

All persons insured by a contract of automobile insurance issued by State Farm to a Tennessee resident, and who, from the earliest allowable time through the date of resolution of this action, received a first-party total loss valuation and payment that included a downward adjustment premised on a "Typical Negotiation Adjustment" or similar adjustment.

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<sup>1</sup> This amount is not inclusive of tax, title, and transfer fees.

30. Excluded from the Class are Defendants, any parent, subsidiary, affiliate, or controlled person of Defendants, as well as the officers, directors, agents, servants, or employees of Defendants and the immediate family members of any such person. Also excluded is any judge who may preside over this cause of action.

31. The exact number of the Class, as herein identified and described, is not known, but it is estimated to be at least one hundred. Accordingly, the Class is so numerous that joinder of individual members herein is impracticable.

32. There are common questions of law and fact in the action that relate to and affect the rights of each member of the Class, and the relief sought is common to the entire class. In particular, the common questions of law and fact include:

- a. Whether State Farm systemically applied Typical Negotiation Adjustments or substantially similar adjustments to calculate the value of total loss vehicles;
- b. Whether, through the above referenced practice, State Farm failed to pay its insureds the actual cash value of their loss vehicles;
- c. Whether, through the above referenced practice, State Farm breached its contracts with its insureds;
- d. Whether Plaintiff and the Class are entitled to declaratory and injunctive relief; and
- e. Whether Plaintiff and the Class are entitled to compensatory damages in the amount of the invalid adjustment applied to Plaintiff's and each Class member's valuation.

33. The claims of the Plaintiff, who is representative of the Class herein, are typical of the claims of the proposed Class, in that the claims of all members of the proposed Class, including the Plaintiff, depend on a showing of the same acts of State Farm giving rise to the right of Plaintiff to the relief sought herein. There is no conflict between the individually named Plaintiff and other members of the proposed Class with respect to this action, or with respect to the claims for relief set forth herein.

34. The named Plaintiff is the representative party for the Class, and is able to, and will fairly and adequately, protect the interests of the Class. The attorneys for Plaintiff and the Class are experienced and capable in complex civil litigation, insurance litigation, and class actions.

35. Class certification is appropriate under Tennessee Rules of Civil Procedure Rule 23.02(2) because State Farm's actions are generally applicable to the Class as a whole, and Plaintiff seeks equitable remedies with respect to the Class as a whole.

36. Class certification is also appropriate under Tennessee Rules of Civil Procedure Rule 23.02(3) because the common questions of law and fact in this case predominate over questions affecting only individual members of the Class, and a class action is the superior method for fair and efficient adjudication of the controversy. The likelihood that individual members of the Class will prosecute separate actions is remote due to the time and expense necessary to conduct such litigation. The class action procedure would permit a large number of injured persons to prosecute common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of evidence and effort. Class treatment also would permit the adjudication of claims by Class members

whose claims are too small and complex to individually litigate against a large corporate defendant.

**FIRST CAUSE OF ACTION**  
**BREACH OF CONTRACT**

37. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

38. State Farm's insurance contract with its insureds provides coverage for the total loss of a vehicle on the basis of actual cash value or replacement with another of like kind and quality. Moreover, in determining the actual cash value of a total loss vehicle, State Farm must consider the vehicle's fair market value at the time of loss.

39. State Farm has breached its contract with Plaintiff and the members of the Class by not paying total loss claims upon the actual cash value of loss vehicles. State Farm departed from the use of actual cash value by basing its valuations and claims payments on the values of comparable vehicles that have been artificially reduced by an unjustified Typical Negotiation Adjustment that is (a) arbitrary, (b) contrary to industry practices and consumer experiences (and therefore not reflective of the vehicle's fair market value), and (c) not specific or appropriate as to dollar amount.

40. State Farm's policy, and its duties to insureds, must be construed in the context of, and consistent with, Tennessee law applicable to insurance contracts. In Tennessee, for total loss claims that deviate from providing actual cost values, "[a]ny deductions from the cost, including deduction for salvage, must be as specific as reasonably possible, and specific and appropriate as to dollar amount . . . ." Tenn. Comp. R. & Regs. R. 0780-01-05-.09(c). The purpose of this requirement is to ensure that any adjustments

are reasonable, justified, and fully explained to ensure that consumers have the ability to evaluate and challenge any deductions that are improper and/or without basis.

41. State Farm's breaches have resulted in a systemic failure to pay the actual cash value of total loss vehicles as required under the contract.

42. State Farm's breaches of contract and violations of law have caused damages to Plaintiff and the Class. Plaintiff's and proposed Class members' damages include the amounts improperly deducted by State Farm from the insureds' payments on the basis of a Typical Negotiation Adjustment.

**SECOND CAUSE OF ACTION**  
**BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**

43. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

44. Implied in each of Defendants' insurance policies is a covenant that Defendants will act in good faith and deal fairly with their insureds; that they will do nothing to interfere with their insureds' rights to receive the benefits of the policies; that they will not place their own interests before those of their insureds; that they will exercise diligence, good faith, and fidelity in safeguarding the interest of their insureds; and that they will deal ethically with their insureds and will fairly and adequately inform them of the nature and scope of their insurance coverage (hereinafter referred to as "covenant of good faith and fair dealing").

45. Defendants have breached the covenant of good faith and fair dealing by, inter alia:

- a. Intentionally applying Typical Negotiation Adjustments to undervalue comparable vehicles, and, in turn, insureds' total loss vehicles;



- b. Failing to pay insureds the actual cash value of their total loss vehicles;
- c. Interpreting the terms and conditions of their insurance policies in an unreasonable manner, which is inconsistent with applicable law, solely in an effort to understate the fair market value of total loss vehicles and avoid paying insureds the actual cash value on their total loss claims; and
- d. Inventing spurious grounds for undervaluing total loss claims that are hidden, not specific in dollar amount, not adequately explained, and unreasonable.

46. Plaintiff is informed and believes and alleges thereon that Defendants are in breach of the covenant of good faith and fair dealing and did the acts complained of herein, among others, for the purpose of undervaluing comparable and total loss vehicles and underpaying insureds' the actual cash value of their total loss claims.

47. State Farm's breaches of the covenant of good faith and fair dealing have caused damages to Plaintiff and the Class. Plaintiff's and proposed Class members' damages include the amounts improperly deducted by State Farm from the insureds' payments on the basis of a Typical Negotiation Adjustment.

**THIRD CAUSE OF ACTION**  
**DECLARATORY JUDGMENT**

48. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

49. A dispute between Plaintiff and the proposed Class and State Farm is before this Court under Tenn. Code Ann. §§ 29-14-101, *et seq.* concerning the construction of the auto insurance policies issued by Defendant and the rights arising under that policy.

50. Plaintiff, for herself and on behalf of the Class, seeks a declaration of rights and liabilities of the parties herein. Specifically, Plaintiff is seeking a declaration that in paying total loss claims with first-party insureds, it is a breach of the insurance contract with State Farm, as well as a violation of Tennessee law, for State Farm to base the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments that are (a) arbitrary, (b) contrary to industry practices and consumer experiences (and therefore not reflective of the vehicle's fair market value), and (c) not as specific as reasonably possible or appropriate as to dollar amount.

51. State Farm's unlawful common policy and general business practice as described herein are ongoing. Accordingly, State Farm has breached, and continues to breach, the express terms of its contracts of insurance with Plaintiff and members of the Class requiring it to settle total loss claims on the basis of the total loss vehicle's actual cash value.

52. As a result of these breaches of contract, Plaintiff and the proposed Class members have been injured. Plaintiff's and proposed Class members' damages include the amounts illegally deducted by State Farm from the insureds' payments.

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, respectfully requests that this Court:

- a) determine that this action may be maintained as a class action under Rule 23 of the Tennessee Rules of Civil Procedure, appoint Plaintiff as class representative, and appoint undersigned counsel as Class Counsel;
- b) enter an order finding that State Farm's actions described herein constitute a breach of contract;
- c) enter a declaratory judgment that in paying total loss claims with first-party insureds, it is a breach of the insurance contract with State Farm, as well as a violation of Tennessee law, for State Farm to base the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments;
- d) enter an order enjoining State Farm from basing the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments;
- e) enter an order requiring State Farm to pay compensatory damages to Plaintiff and all members of the proposed class in the amount of 100% of the proceeds that State Farm wrongfully deducted from its insureds' payments in the form of Typical Negotiation Adjustments or alternatively enter an order requiring State Farm to prepare a total loss valuation for Plaintiff and each member of the Class that does not include any Typical Negotiation Adjustments or any other deductions that are arbitrary, unmeasurable, indiscernible, nonitemized, or not as specific as reasonably possible or appropriate as to dollar amount;

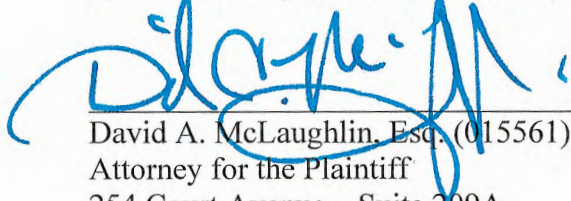
- f) award pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;
- g) award reasonable attorneys' fees and costs pursuant to applicable law; and
- h) grant such other legal and equitable relief as the Court may deem appropriate.

**JURY DEMAND**

Plaintiff and the Class members hereby request a trial by jury.

Respectfully submitted,

RAINWATER, HOLT & SEXTON, P.A.



David A. McLaughlin, Esc. (015561)

Attorney for the Plaintiff

254 Court Avenue – Suite 209A

Memphis, TN 38103

(901) 567-8286 phone

(901) 630-4359 fax

[DMcLaughlin@RainFirm.com](mailto:DMcLaughlin@RainFirm.com)

-And-

HANK BATES, *pro hac pending*

TIFFANY WYATT OLDHAM, *pro hac pending*

**CARNEY BATES & PULLIAM, PLLC**

519 W. 7<sup>th</sup> St.

Little Rock, AR 72201

Tel: (501) 312-8500

Fax: (501) 312-8505

*Counsel for Plaintiff and the Proposed Class*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE

JESSICA CLIPPINGER, on behalf of	)	
herself and all others similarly situated,	)	
	)	
Plaintiff,	)	Case No.:
	)	
v.	)	
	)	
STATE FARM MUTUAL	)	
AUTOMOBILE INSURANCE CO.	)	
	)	
Defendant.	)	

**DECLARATION OF JAY THORPE IN SUPPORT OF  
DEFENDANT’S NOTICE OF REMOVAL**

I, Jay Thorpe, hereby state and declare as follows:

1. I am over twenty-one years of age, of sound mind, and competent to testify. Unless otherwise stated, I have personal knowledge of the facts stated in this declaration. If called as a witness, I could testify as to each of them.
2. I currently am employed as an Analyst in P&C Analytics - Claims by State Farm Mutual Automobile Insurance Company (“State Farm”) in Bloomington, Illinois. I am authorized to make this declaration on behalf of State Farm.
3. State Farm is an insurance company organized under the laws of the State of Illinois with its principal place of business in Illinois.
4. I have been provided the following definition of Plaintiff’s proposed class:  
  
All persons insured by a contract of automobile insurance issued by State Farm to a Tennessee resident, and who, from the earliest allowable time through the date of resolution of this action, received a first-party total loss valuation and payment that included a downward adjustment premised on a “Typical Negotiation Adjustment” or similar adjustment.

5. Further, I understand Plaintiff alleges that State Farm improperly discounts the actual cash value of total-loss vehicles by 8.5% through its use of Autosource reports.

6. I have been asked to calculate the number of insureds who had a first-party total-loss claim and for whom the actual cash value settlement was calculated using an Autosource report during the time period of May 8, 2014 to May 8, 2020.

7. State Farm uses an electronic platform to store certain claim information, including information that permits State Farm to identify the number of putative class members within Plaintiff's proposed class.

8. At my direction, a preliminary search of relevant claims data (the number of first-party total-loss claims in Tennessee for the relevant time period implicated by the putative class) was performed in State Farm's electronic database. This search included State Farm insureds (i) who made claims that resulted in a determination of a total loss of the vehicle, (ii) whose Tennessee total-loss valuation claims between May 8, 2014 and May 8, 2020 is identified as being based on an Autosource report.

9. For this time period, the search identified 67,262 insureds with first-party total-loss valuations that employed Autosource reports.

10. To determine which of the 67,262 insureds' Autosource reports applied a negotiation adjustment to the advertised prices of comparable vehicles would require individual review of each of the 67,262 Autosource reports, a review that is impracticable.

11. The search further determined that the total Autosource valuations for the insureds with first-party total-loss valuations that employed Autosource reports is \$618,931,197.60.

12. If one assumes for the sake of argument that State Farm's total-loss valuations result in an average downward adjustment of 8.5% as alleged by Plaintiff (First Am. Compl. ¶ 4), then the total-loss valuations at issue would have totaled \$676,427,538.36 if State Farm had never applied the 8.5% downward adjustment alleged by Plaintiff. The difference between the adjusted and the actual total loss valuations is \$57,496,140.76.

13. \$57,496,140.76 multiplied by 90% (or 0.9) is \$51,746,706.68.

I declare under penalty of perjury and under the laws of the United States, 28 U.S.C. § 1746, that the foregoing statements are true and correct.

Signed this 2nd day of July, 2020.

s/ Jay Thorpe

Jay Thorpe

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE

JESSICA CLIPPINGER, on behalf of	)	
herself and all others similarly situated,	)	
	)	
Plaintiff,	)	Case No.:
	)	
v.	)	
	)	
STATE FARM MUTUAL	)	
AUTOMOBILE INSURANCE CO.	)	
	)	
Defendant.	)	

**DECLARATION OF PETER W. HERZOG III IN SUPPORT OF  
DEFENDANT’S NOTICE OF REMOVAL**

I, Peter W. Herzog III, hereby state and declare as follows:

1. I am over twenty-one years of age, of sound mind, and competent to testify. Unless otherwise stated, I have personal knowledge of the facts stated in this declaration. If called as a witness, I could testify as to each of them.

2. I am an attorney licensed to practice before all courts of the State of Missouri and Massachusetts. I am a partner in the law firm of Wheeler Trigg O’Donnell LLP, which is counsel for Defendant in similar litigation in various jurisdictions.

3. I am informed and understand, including through sworn testimony I have reviewed, that more than 90% of the valuation reports generated by Autosource are “instant reports” that use a selling price adjustment or typical negotiation discount for comparable vehicles.

4. Based on this information and understanding, and the information in the Declaration of Jay Thorpe, applying the 90% figure to the total monetary amount of



negotiation adjustments to total loss claims by putative class members during the relevant period, results in an amount of \$51,746,706.68 “in controversy” in this case.

I declare under penalty of perjury and under the laws of the United States, 28 U.S.C. § 1746, that the foregoing statements are true and correct.

Signed this 2nd day of July 2020.

s/ *Peter W. Herzog III*

Peter W. Herzog III

**CIRCUIT COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

ELECTRONICALLY FILED  
2020 May 08 1:48 PM  
CLERK OF COURT

**SUMMONS IN CIVIL ACTION**

☒ Lawsuit  
☐ Divorce

Docket No. \_\_\_\_\_

Ad Damnum \$ See Complaint

JESSICA CLIPPINGER, on behalf of herself  
and all others similarly situated

VS

STATE FARM PROPERTY AND  
CASUALTY COMPANY

Plaintiff(s)

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

STATE FARM PROPERTY AND CASUALTY COMPANY

Serve through the Tennessee Commissioner of Insurance,  
SERVED PURSUANT TO T.C.A. 56-7-1206, Tennessee Uninsured  
Motorist Statute.

Policyholder: Jessica Clippinger, Policy Number 226491042F

Method of Service:

- ☐ Certified Mail  
☐ Shelby County Sheriff  
☒ Commissioner of Insurance (\$)  
☐ Secretary of State (\$)  
☐ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ Attach Required Fees

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

serving a copy of your answer to the Complaint on David A. McLaughlin

Plaintiff's

attorney, whose address is 254 Court Avenue, Suite 209A, Memphis, TN 38103

telephone (901) 671-1551

within THIRTY (30) DAYS after this summons has been served upon you, not including the day of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

TEMIKA D. GIPSON, Clerk / W. AARON HALL, Clerk and Master

TESTED AND ISSUED \_\_\_\_\_ By \_\_\_\_\_, D.C.

TO THE DEFENDANT:

NOTICE; Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

FOR AMERICANS WITH DISABILITIES ACT (ADA) ASSISTANCE ONLY, CALL (901) 222-2341

I, TEMIKA D. GIPSON / W. AARON HALL, Clerk of the Court, Shelby County, Tennessee, certify this to be a true and accurate copy as filed this

20\_\_

TEMIKA D. GIPSON, Clerk / W. AARON HALL, Clerk and Master By: \_\_\_\_\_, D.C.

**Exhibit D**

RETURN OF SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I **HAVE** SERVED THE WITHIN SUMMONS:

By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M. a copy of the summons  
and a copy of the Complaint to the following Defendant \_\_\_\_\_  
at \_\_\_\_\_

\_\_\_\_\_  
Signature of person accepting service

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process

RETURN OF NON-SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I **HAVE NOT** SERVED THE WITHIN SUMMONS:

To the named Defendant \_\_\_\_\_  
because \_\_\_\_\_ is (are) not to be found in this County after diligent search and inquiry for the following  
reason(s): \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process



**The Shelby County, Tennessee Circuit Court**

**Case Style:** JESSICA CLIPPINGER VS STATE FARM PROP AND CAS CO

**Case Number:** CT-1844-20

**Type:** SUMMONS ISSD TO MISC

A handwritten signature in black ink, reading "Kathryn Howard". The signature is written in a cursive, flowing style.

Kathryn Howard, DC

Electronically signed on 05/08/2020 02:13:16 PM

IN THE CIRCUIT COURT OF SHELBY COUNTY TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

---

JESSICA CLIPPINGER, on behalf of  
herself and all others similarly situated,

Plaintiff,

v.

STATE FARM PROPERTY  
AND CASUALTY COMPANY,

Defendant.

---

No.: \_\_\_\_\_

Division: \_\_\_\_\_

JURY DEMANDED

---

**CLASS ACTION COMPLAINT**

---

Plaintiff Jessica Clippinger (“Plaintiff”), brings this class action on behalf of herself and all others similarly situated, by and through undersigned counsel, and for her Complaint against State Farm Property and Casualty Company (“Defendant” or “State Farm”) states and alleges as follows:

**INTRODUCTION**

1. This is a class action whereby Plaintiff seeks, for herself and all other similarly situated insured customers or former customers of State Farm, declaratory and injunctive relief, as well as compensatory damages and other appropriate remedies, resulting from State Farm’s common policy and general business practice of using arbitrary and unexplained adjustments to improperly reduce insureds’ total loss valuations and claims payments in violation of its contractual obligations and Tennessee law.

2. When valuing total loss claims for vehicles, it is improper for an automobile insurance company, such as State Farm, to undervalue and underpay the claims by manipulating the data used to value the vehicles. Specifically, under its insurance policies’

terms, State Farm has a contractual duty to pay the actual cash value of a loss vehicle when adjusting total loss claims. This contractual obligation is consistent with applicable Tennessee law, which provides that State Farm must make any deductions from the actual cash value as specific as reasonably possible, and specific and appropriate with regards to the dollar amount when adjusting first-party automobile total loss claims.

3. Notwithstanding its contractual obligations, State Farm systemically fails to pay its insureds the actual cash value of their total loss vehicles by taking improper and unreasonable adjustments that are not fully explained in order to artificially decrease its insureds' recovery.

4. State Farm applied an adjustment for a typical negotiation ("Typical Negotiation Adjustment"), resulting in, on average, an 8.5% downward adjustment to each of the base values of the comparable vehicles, which were then used to derive the value of Plaintiff's total loss vehicle. This 8.5% reduction is wholly arbitrary and not based on any statistical, objective, or verifiable data. The adjustment was applied on each of the comparable vehicles on top of adjustments for differences such as mileage, options, and equipment. The deduction is not as specific as reasonable possible or appropriate as to dollar amount, and no explanation is provided as to the evidentiary basis for the 8.5% reduction. The only purported explanation for the downward adjustments in Plaintiff's multi-page valuation report is a general, nondescript statement buried deep in the document (*see* Exhibit 1 at pp. 8 and 9), providing the reduction is "to account for typical negotiation."

5. Moreover, pursuant to its contracts of insurance, State Farm must consider a vehicle's fair market value when settling a total loss claim for actual cash value. The

Typical Negotiation Adjustment, however, is not based in fact, as it is contrary to the used car industry's market pricing and inventory management. Automobile dealers' internet list prices are priced to market, in part to reflect the intense competition in the context of internet pricing and comparison shopping. Thus, it would be atypical for an insured engaged in a so-called "typical negotiation" to be able to secure a reduction of the online list price—much less an 8.5% reduction. In short, the Typical Negotiation Adjustments are statistically invalid adjustments premised on unknown, unexplained, and factually erroneous assumptions to deliberately undervalue policyholders' total loss claims and understate the fair market value of total loss vehicles.

6. This pattern and practice of undervaluing comparable and total loss vehicles when paying first-party automobile total loss claims, which benefits the insurer at the expense of the insured, is not permitted under the terms of State Farm's policies with its insureds, nor under Tennessee law applicable to insurance contracts.

### **JURISDICTION AND VENUE**

7. Plaintiff and all proposed class members are citizens of the State of Tennessee. State Farm is an insurance company authorized to do business in the State of Tennessee, and, at all relevant times hereto, was engaged in the marketing, sale, and issuance of automobile insurance policies in the State of Tennessee.

8. The compensatory damages being sought by Plaintiff do not exceed \$75,000, and no individual member of the Class would possess a compensatory damage claim in excess of \$75,000. Additionally, the aggregate compensatory damages (in the amount of Typical Negotiation Adjustments wrongfully deducted without itemization or

explanation), claimed by Plaintiff and the Class are below the \$5,000,000 federal jurisdictional threshold under the Class Action Fairness Act (“CAFA”).

9. Accordingly, this Court has jurisdiction over the parties pursuant to Tenn. Code Ann. § 16-10-113, as the policies at issue were issued in this state.

10. Venue is proper pursuant to Tenn. Code Ann. § 20-4-101(a).

### **PARTIES**

11. Plaintiff Jessica Clippinger resides in Shelby County and is a citizen of the state of Tennessee. At all relevant times hereto, Plaintiff was contracted with State Farm for automobile insurance. On or about May 10, 2019, Plaintiff’s insured vehicle was deemed a total loss.

12. Defendant State Farm is a property and casualty insurance company that owns numerous offices throughout the United States, including the state of Tennessee. Defendant State Farm’s corporate headquarters are located at One State Farm Plaza, Bloomington, IL 61710. Defendant State Farm conducts business in Tennessee through insurance agents and other company personnel.

### **FACTUAL ALLEGATIONS**

#### **A. State Farm’s Improper Valuation of Total Loss Claims.**

13. State Farm sells automobile insurance that provides coverage for property damage done to a vehicle, whether by collision, theft, or other perils.

14. Plaintiff, like all proposed class members, currently has, had, or was covered under a contract of automobile insurance with State Farm. The contract of insurance between Plaintiff, as well as each proposed class member, and State Farm provides coverage for the total loss of a vehicle on the basis of actual cash value or



replacement with another of like kind and quality. The determination of a loss vehicle's actual cash value includes consideration of the vehicle's fair market value. The material policy language for all State Farm policies during the relevant time period is identical or substantially the same.

15. State Farm systematically bases its valuations and payments on total loss claims on manipulated data and reports that do not meet State Farm's duties under its insurance contracts, imposing unreasonable, inappropriate, and unspecific Typical Negotiation Adjustments to artificially reduce the values of comparable vehicles. Moreover, these deductions have no basis in fact and significantly understate the actual cash value of insureds' total loss vehicles.

16. Upon information and belief, to calculate its valuations and claims payments, State Farm obtains a market valuation report from a third-party company called Audatex. Audatex uses a software program called "Autosource Market-Driven Valuation" ("AMDV") to calculate the value of a total loss vehicle. The AMDV software was designed for use by insurance companies and is not an objective industry source used to determine the actual retail cost of used cars.

17. The AMDV software program purports to contain values for comparable vehicles recently sold or for sale in the geographic area of the insured. The valuation reports generated by the AMDV software program also purport to contain values for the loss vehicle based upon the data for the comparable vehicles in the report. Upon information and belief, State Farm instructs Audatex as to what specific data to include in the report as the basis for the valuation, including whether to apply a Typical Negotiation Adjustment to the comparable vehicles.

18. The AMDV report starts with itemized internet sales prices for specified comparable vehicles acquired from various dealers. However, rather than utilizing this actual price data, the AMDV report instead applies a downward adjustment “to account for typical negotiation.” Thus, State Farm is not providing its insureds with the actual cash value or actual cost of the comparable vehicles based upon actual data acquired by State Farm or Audatex. Instead, rather than using the actual data obtained, State Farm wrongly applies a significant deduction based on an invalid and unexplained assumption that the insured can negotiate a lower price. In short, rather than paying actual cash value, State Farm pays less than actual cash value; leaving it to the insureds to make up the difference by engaging in what State Farm describes as a “typical negotiation” and achieving a better deal.

19. State Farm provides no data or explanation of industry practices in its valuation reports to support *any* Typical Negotiation Adjustment, much less one at 8.5%. The only stated reason given for its 8.5% downward adjustment to the list prices of the comparable vehicles is: “The selling price *may* be substantially less than the asking price. When indicated, the asking price has been adjusted to account for typical negotiation according to each comparables [sic] price.” Ex. 1 at p. 8. However, an 8.5% reduction on a used vehicle’s internet price is not typical and does not reflect market realities.

20. Most fundamentally, this assumption is contrary to customary automobile dealer practices and inventory management where list prices are priced to market, in part to reflect the intense competition in the context of internet pricing and comparison shopping. An 8.5% reduction would be atypical and therefore is not proper to include in determining actual cash value. The inclusion of this significant downward adjustment

purportedly premised on a “typical negotiation” is particularly improper in the context of this action—insureds who have suffered a total loss of their vehicle need to procure a replacement and have limited time to search out the atypical opportunity to obtain the below-market deal Defendant presumes to always exist without explanation or discernable, specified or itemized support.

21. Moreover, State Farm provides no explanation as to how it arrived at the amount to be deducted. Instead, State Farm provides an arbitrary deduction, that is not adequately specified nor explained and, as such, cannot be verified. State Farm does not explain whether there is *any* reference source or data that was used in making its assumption much less specify and itemize such data (if it exists).

22. Furthermore, State Farm unreasonably buries its Typical Negotiation Adjustment at the back of the valuation report in an effort to obscure this deduction. For example, the report begins with a “Valuation Detail” section that purports to display the price of each comparable vehicle and then to itemize all “adjustments.” Ex. 1 at pp. 4-6. Although this section displays any adjustments for mileage, options and equipment, it does not disclose the Typical Negotiation Adjustments. Instead, the displayed “Price” is not the actual price data collected by State Farm and Audatex, but rather, it is that price *after* the application of the downward Typical Negotiation Adjustment. In addition, the “Market Overview” section explains the mileage, options and equipment adjustments but makes no mention of the Typical Negotiation Adjustments. *Id.* at pp. 7-8. Rather, the Typical Negotiation Adjustments are hidden at the back of the report in paragraphs detailing the packages and options of the comparable vehicles in a section titled “Comparable Vehicle Details.” *Id.* at 8-9. However, even this section displays a bolded price at the top for each

comparable vehicle, only explaining in non-bolded typeface at the bottom that the bolded price is not the actual price data for the vehicle.

23. Along with hiding this adjustment at the back of the valuation report, State Farm fails to specify the dollar amount of the deduction and fails to fully explain this deduction to insureds. Rather, the insured has to perform a calculation to ascertain the specific dollar amount and/or percentage that was deducted and is left to guess as to what this number was derived from and/or based upon.

24. For Plaintiff, the valuation report used a “Typical Negotiation Adjustment” to reduce the value of each comparable vehicle by, on average, 8.5%. Consequently, this improperly reduced Plaintiff’s recovery under her policy by approximately 8.5%. These reductions bear no relation to the actual fair market value of the comparable vehicles or the loss vehicle. The price of each comparable vehicle used in the Audatex Report was pulled from a dealer internet listing and, therefore, was priced to market. Exhibit 1 at pp. 8-9. The application of these arbitrary, nonitemized, and unexplained Typical Negotiation Adjustments to reduce the value of comparable vehicles artificially reduces the valuation of the loss vehicle to benefit the insurer at the expense of the insured. State Farm’s actions and improper valuations violate its contractual obligations and Tennessee law applicable to insurance settlement practices.

**B. State Farm Undervalued and Underpaid Plaintiff’s Total Loss Claim.**

25. Plaintiff owned a 2017 Dodge Grand Caravan SXT 2WD 4 door passenger van that was deemed a total loss on or around May 10, 2019.

26. Plaintiff made a claim with State Farm for the total loss of her vehicle.

27. State Farm provided a total loss valuation to Plaintiff for her total loss claim. State Farm based its offer upon a valuation report obtained from Audatex using the AMDV software program.

28. State Farm valued Plaintiff's total loss claim at \$14,490.00<sup>1</sup> and paid Plaintiff that amount. State Farm's valuation was based on a market valuation report obtained from Audatex using the AMDV software program. The market valuation report listed values of four different comparable vehicles and applied a Typical Negotiation Adjustment of approximately 8.5% to all four vehicles without itemizing or explaining the basis of the adjustment and/or how the value of the deduction was determined. The use of the Typical Negotiation Adjustment to adjust Plaintiff's total loss claim downward violates the applicable insurance policy, in that Defendant applied the improper adjustment to pay Plaintiff less than the actual cash value of her total loss vehicle.

### **CLASS ACTION ALLEGATIONS**

29. This action is brought by Plaintiff as a class action, on her own behalf and on behalf of all others similarly situated, under the provisions of Rules 23.01 and 23.02 of the Tennessee Rules of Civil Procedure, for declaratory judgment and monetary restitution, plus interest, injunctive relief, costs, and attorney's fees. Plaintiff seeks certification of this action as a class action on behalf of the following class (the "Class"):

All persons insured by a contract of automobile insurance issued by State Farm to a Tennessee resident, and who, from the earliest allowable time through the date of resolution of this action, received a first-party total loss valuation and payment that included a downward adjustment premised on a "Typical Negotiation Adjustment" or similar adjustment.

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<sup>1</sup> This amount is not inclusive of tax, title, and transfer fees.

30. Excluded from the Class are Defendants, any parent, subsidiary, affiliate, or controlled person of Defendants, as well as the officers, directors, agents, servants, or employees of Defendants and the immediate family members of any such person. Also excluded is any judge who may preside over this cause of action.

31. The exact number of the Class, as herein identified and described, is not known, but it is estimated to be at least one hundred. Accordingly, the Class is so numerous that joinder of individual members herein is impracticable.

32. There are common questions of law and fact in the action that relate to and affect the rights of each member of the Class, and the relief sought is common to the entire class. In particular, the common questions of law and fact include:

- a. Whether State Farm systemically applied Typical Negotiation Adjustments or substantially similar adjustments to calculate the value of total loss vehicles;
- b. Whether, through the above referenced practice, State Farm failed to pay its insureds the actual cash value of their loss vehicles;
- c. Whether, through the above referenced practice, State Farm breached its contracts with its insureds;
- d. Whether Plaintiff and the Class are entitled to declaratory and injunctive relief; and
- e. Whether Plaintiff and the Class are entitled to compensatory damages in the amount of the invalid adjustment applied to Plaintiff's and each Class member's valuation.

33. The claims of the Plaintiff, who is representative of the Class herein, are typical of the claims of the proposed Class, in that the claims of all members of the proposed Class, including the Plaintiff, depend on a showing of the same acts of State Farm giving rise to the right of Plaintiff to the relief sought herein. There is no conflict between the individually named Plaintiff and other members of the proposed Class with respect to this action, or with respect to the claims for relief set forth herein.

34. The named Plaintiff is the representative party for the Class, and is able to, and will fairly and adequately, protect the interests of the Class. The attorneys for Plaintiff and the Class are experienced and capable in complex civil litigation, insurance litigation, and class actions.

35. Class certification is appropriate under Tennessee Rules of Civil Procedure Rule 23.02(2) because State Farm's actions are generally applicable to the Class as a whole, and Plaintiff seeks equitable remedies with respect to the Class as a whole.

36. Class certification is also appropriate under Tennessee Rules of Civil Procedure Rule 23.02(3) because the common questions of law and fact in this case predominate over questions affecting only individual members of the Class, and a class action is the superior method for fair and efficient adjudication of the controversy. The likelihood that individual members of the Class will prosecute separate actions is remote due to the time and expense necessary to conduct such litigation. The class action procedure would permit a large number of injured persons to prosecute common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of evidence and effort. Class treatment also would permit the adjudication of claims by Class members

whose claims are too small and complex to individually litigate against a large corporate defendant.

**FIRST CAUSE OF ACTION**  
**BREACH OF CONTRACT**

37. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

38. State Farm's insurance contract with its insureds provides coverage for the total loss of a vehicle on the basis of actual cash value or replacement with another of like kind and quality. Moreover, in determining the actual cash value of a total loss vehicle, State Farm must consider the vehicle's fair market value at the time of loss.

39. State Farm has breached its contract with Plaintiff and the members of the Class by not paying total loss claims upon the actual cash value of loss vehicles. State Farm departed from the use of actual cash value by basing its valuations and claims payments on the values of comparable vehicles that have been artificially reduced by an unjustified Typical Negotiation Adjustment that is (a) arbitrary, (b) contrary to industry practices and consumer experiences (and therefore not reflective of the vehicle's fair market value), and (c) not specific or appropriate as to dollar amount.

40. State Farm's policy, and its duties to insureds, must be construed in the context of, and consistent with, Tennessee law applicable to insurance contracts. In Tennessee, for total loss claims that deviate from providing actual cost values, "[a]ny deductions from the cost, including deduction for salvage, must be as specific as reasonably possible, and specific and appropriate as to dollar amount . . . ." Tenn. Comp. R. & Regs. R. 0780-01-05-.09(c). The purpose of this requirement is to ensure that any adjustments



are reasonable, justified, and fully explained to ensure that consumers have the ability to evaluate and challenge any deductions that are improper and/or without basis.

41. State Farm's breaches have resulted in a systemic failure to pay the actual cash value of total loss vehicles as required under the contract.

42. State Farm's breaches of contract and violations of law have caused damages to Plaintiff and the Class. Plaintiff's and proposed Class members' damages include the amounts improperly deducted by State Farm from the insureds' payments on the basis of a Typical Negotiation Adjustment.

**SECOND CAUSE OF ACTION**  
**BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**

43. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

44. Implied in each of Defendants' insurance policies is a covenant that Defendants will act in good faith and deal fairly with their insureds; that they will do nothing to interfere with their insureds' rights to receive the benefits of the policies; that they will not place their own interests before those of their insureds; that they will exercise diligence, good faith, and fidelity in safeguarding the interest of their insureds; and that they will deal ethically with their insureds and will fairly and adequately inform them of the nature and scope of their insurance coverage (hereinafter referred to as "covenant of good faith and fair dealing").

45. Defendants have breached the covenant of good faith and fair dealing by, inter alia:

- a. Intentionally applying Typical Negotiation Adjustments to undervalue comparable vehicles, and, in turn, insureds' total loss vehicles;

- b. Failing to pay insureds the actual cash value of their total loss vehicles;
- c. Interpreting the terms and conditions of their insurance policies in an unreasonable manner, which is inconsistent with applicable law, solely in an effort to understate the fair market value of total loss vehicles and avoid paying insureds the actual cash value on their total loss claims; and
- d. Inventing spurious grounds for undervaluing total loss claims that are hidden, not specific in dollar amount, not adequately explained, and unreasonable.

46. Plaintiff is informed and believes and alleges thereon that Defendants are in breach of the covenant of good faith and fair dealing and did the acts complained of herein, among others, for the purpose of undervaluing comparable and total loss vehicles and underpaying insureds' the actual cash value of their total loss claims.

47. State Farm's breaches of the covenant of good faith and fair dealing have caused damages to Plaintiff and the Class. Plaintiff's and proposed Class members' damages include the amounts improperly deducted by State Farm from the insureds' payments on the basis of a Typical Negotiation Adjustment.

**THIRD CAUSE OF ACTION**  
**DECLARATORY JUDGMENT**

48. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

49. A dispute between Plaintiff and the proposed Class and State Farm is before this Court under Tenn. Code Ann. §§ 29-14-101, *et seq.* concerning the construction of the auto insurance policies issued by Defendant and the rights arising under that policy.

50. Plaintiff, for herself and on behalf of the Class, seeks a declaration of rights and liabilities of the parties herein. Specifically, Plaintiff is seeking a declaration that in paying total loss claims with first-party insureds, it is a breach of the insurance contract with State Farm, as well as a violation of Tennessee law, for State Farm to base the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments that are (a) arbitrary, (b) contrary to industry practices and consumer experiences (and therefore not reflective of the vehicle's fair market value), and (c) not as specific as reasonably possible or appropriate as to dollar amount.

51. State Farm's unlawful common policy and general business practice as described herein are ongoing. Accordingly, State Farm has breached, and continues to breach, the express terms of its contracts of insurance with Plaintiff and members of the Class requiring it to settle total loss claims on the basis of the total loss vehicle's actual cash value.

52. As a result of these breaches of contract, Plaintiff and the proposed Class members have been injured. Plaintiff's and proposed Class members' damages include the amounts illegally deducted by State Farm from the insureds' payments.

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, respectfully requests that this Court:

- a) determine that this action may be maintained as a class action under Rule 23 of the Tennessee Rules of Civil Procedure, appoint Plaintiff as class representative, and appoint undersigned counsel as Class Counsel;
- b) enter an order finding that State Farm's actions described herein constitute a breach of contract;
- c) enter a declaratory judgment that in paying total loss claims with first-party insureds, it is a breach of the insurance contract with State Farm, as well as a violation of Tennessee law, for State Farm to base the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments;
- d) enter an order enjoining State Farm from basing the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments;
- e) enter an order requiring State Farm to pay compensatory damages to Plaintiff and all members of the proposed class in the amount of 100% of the proceeds that State Farm wrongfully deducted from its insureds' payments in the form of Typical Negotiation Adjustments or alternatively enter an order requiring State Farm to prepare a total loss valuation for Plaintiff and each member of the Class that does not include any Typical Negotiation Adjustments or any other deductions that are arbitrary, unmeasurable, indiscernible, nonitemized, or not as specific as reasonably possible or appropriate as to dollar amount;

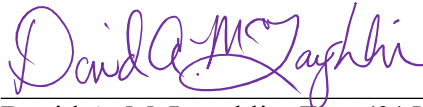
- f) award pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;
- g) award reasonable attorneys' fees and costs pursuant to applicable law; and
- h) grant such other legal and equitable relief as the Court may deem appropriate.

**JURY DEMAND**

Plaintiff and the Class members hereby request a trial by jury.

Respectfully submitted,

RAINWATER, HOLT & SEXTON, P.A.



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Memphis, TN 38103

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(901) 630-4359 fax

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-And-

HANK BATES, *pro hac pending*

TIFFANY WYATT OLDHAM, *pro hac pending*

**CARNEY BATES & PULLIAM, PLLC**

519 W. 7<sup>th</sup> St.

Little Rock, AR 72201

Tel: (501) 312-8500

Fax: (501) 312-8505

*Counsel for Plaintiff and the Proposed Class*

# EXHIBIT I



## Autosource Market-Driven Valuation™

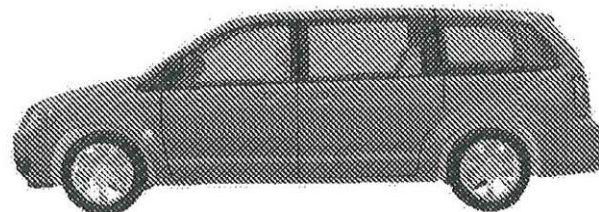
State Farm Insurance is dedicated to delivering exceptional service to you in reference to your claim 42-8782-D0301 from loss date 05/10/2019 on a 2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van. State Farm Insurance has selected Audatex, an independent vehicle valuation company, to prepare a comprehensive vehicle valuation for your vehicle. This valuation report was prepared specifically for your vehicle and represents a fair and accurate value driven by the retail used vehicle market.

In these pages, you will find:

- => [Vehicle Inspection](#)
- => [Market Overview](#)
- => [Valuation Detail](#)

### Market Value

\$14,490



#### The Valuation Process

The breadth and depth of the Audatex used vehicle database makes Autosource the most comprehensive market-driven valuation process available. Audatex has been determining locally sensitive, fair, and accurate market values for vehicles since 1985, with more than 30 million vehicles valued. The Autosource Market Value includes vehicles for sale at dealerships and private party sellers, starting right in the local market.

#### Valuation Detail

##### 1. 2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

	Comparable 1	Your Vehicle	Adjustments
<b>Price</b>	Memphis, Tn		<b>\$15,916</b>
Odometer	47,093 Mi(Actual)	62,150 Mi(Actual)	-980
Comparable 1 Adjusted Price			\$14,936

##### 2. 2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

	Comparable 2	Your Vehicle	Adjustments
<b>Price</b>	Memphis, Tn		<b>\$17,863</b>
Odometer	31,043 Mi(Actual)	62,150 Mi(Actual)	-2,020
Equipment	Rear Side Windw Sunshades		-55
Packages	Blacktop Package		-335
	Driver Convenience Group		-505



# EXHIBIT I

2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

Single DVD Entertainment

-560

Comparable 2 Adjusted Price \$14,388

### 3. 2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

	Comparable 3	Your Vehicle	Adjustments
Price	Memphis, Tn		<b>\$15,010</b>
Odometer	48,806 Mi(Actual)	62,150 Mi(Actual)	-865

Comparable 3 Adjusted Price \$14,145

### 4. 2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

	Comparable 4	Your Vehicle	Adjustments
Price	Memphis, Tn		<b>\$15,770</b>
Odometer	42,475 Mi(Actual)	62,150 Mi(Actual)	-1,280

Comparable 4 Adjusted Price \$14,490

### Final Market Value Calculation

1.2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van	\$14,936
2.2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van	\$14,388
3.2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van	\$14,145
4.2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van	\$14,490

Average Price \$14,490

**Total Condition Adjusted Market Value \$14,490**

Deductible -500.00

Net Adjusted Value \$13,990.00

This valuation was processed using our Multiple Comparable valuation methodology.

The market area identified has multiple tax jurisdictions. Autosource was unable to identify which county or city was applicable to the total loss vehicle. Upon verification of the correct amount, you will need to select the tax from the possibilities shown below.

County	City	State	Tax
Shelby	Memphis	TN	\$1,094.30
Shelby	Bartlett	TN	\$1,102.30
Shelby		TN	\$1,094.30

### Valuation Notes

- o Loss vehicle description was provided by State Farm Insurance

- o Adjustments of Special Note

- The requested Exception valuation has been processed using one or more Comparables in order to meet state regulatory requirements.
- An odometer adjustment of 6.50 cents per mile/kilometer has been applied. This adjustment is based on the vehicle year, vehicle category and market area. Odometer adjustments are capped at 40% of the vehicle's starting value.
- Typical miles for this 2017 Dodge Caravan in Tennessee is 49,606.
- No special adjustments were made for this vehicle.
- All values are in U.S. dollars.

- o Autosource Valuation Process

- Over 9,000,000 vehicles are entered weekly into the database used for researching this value. This database includes dealer inspected, dealer inventory, dealer advertised, phone verified and advertised private party vehicles.

# EXHIBIT I

2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

- The originating search area for this valuation was Memphis, Tennessee.

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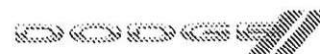
- o **Other Adjustments or Comments**

- This valuation does not include condition adjustments as the loss vehicle was reported in typical condition
- The market area identified has multiple tax jurisdictions. Autosource was unable to identify which county or city was applicable to the total loss vehicle. Upon verification of the correct amount, you will need to select the tax from the possibilities shown below.
- Autosource has utilized a dealer inspected comparable as the basis for the fair market value of the loss vehicle. The comparables located by Autosource may reflect either asking or sold prices.

## Vehicle Description

**VIN: 2C4RDGCG9HR858758**

**2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van**



**62,150 Miles Actual**

**6 cyl Gas Flex Fuel 3.6**

**6-Speed Automatic**

Interior	<b>Dual Air Conditioning</b> <b>Center Console</b> <b>Intermittent Wipers</b> <b>Overhead Console</b> <b>Power Door Locks</b> <b>Power Drivers Seat</b> <b>Leather Seats</b> <b>Third Seat (trucks)</b> <b>Touch Screen Display</b>	<b>Secnd Row Captain Chairs</b> <b>Driver Information Sys</b> <b>Lighted Entry System</b> <b>Pwr Accessory Outlet(s)</b> <b>Power Quarter Windows</b> <b>Rear Climate Control A/C</b> <b>Tachometer</b> <b>Temperature Gauge(s)</b> <b>Tilt &amp; Telescopic Steer</b>	<b>Cruise Control</b> <b>Bucket Seats</b> <b>Floor Mats</b> <b>Pwr Driver Lumbar Supp</b> <b>Power Windows</b> <b>Rear Heater</b> <b>Trip Computer</b> <b>Tire Pressure Monitor</b>
Exterior	<b>Bodyside Moldings</b> <b>Chrome Grille</b> <b>LED Brake Lights</b> <b>Perimeter Alarm System</b> <b>Roof/Luggage Rack</b> <b>Rear Window Wiper/Washer</b> <b>Sunvisor</b>	<b>Color-Keyed Bumper(s)</b> <b>Heated Rear Window Wiper</b> <b>Heated Power Mirrors</b> <b>Dual Power Sliding Doors</b> <b>Rear Step Bumper</b> <b>Rear Spoiler</b> <b>Aluminum/Alloy Wheels</b>	<b>Rear Window Defroster</b> <b>Keyless Entry System</b> <b>Pearlescent Paint</b> <b>Power Liftgate</b> <b>Rem Trunk-L/Gate Release</b> <b>Sunscreen Glass</b>
Mechanical	<b>Heavy Duty Cooling</b> <b>Remote Starter</b>	<b>Power Brakes</b>	<b>Power Steering</b>
Safety	<b>Automatic Dimming Mirror</b> <b>Driver Knee Airbag</b> <b>Head Airbags</b> <b>Rear View Camera</b> <b>Theft Deterrent System</b>	<b>Dual Airbags</b> <b>Daytime Running Lights</b> <b>Halogen Headlights</b> <b>Side Airbags</b> <b>3rd Row Head Airbags</b>	<b>Anti-Lock Brakes</b> <b>Elect. Stability Control</b> <b>2nd Row Head Airbags</b> <b>Traction Control System</b>
Entertainment	<b>Auxiliary Audio Input</b> <b>AM/FM CD Player</b> <b>Wireless Phone Connect</b>	<b>1st Row LCD Monitor(s)</b> <b>Strg Wheel Radio Control</b> <b>Wireless Audio Streaming</b>	<b>MP3 Decoder</b> <b>USB Audio Input(s)</b>



# EXHIBIT I

2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

Packages  
**SXT Package**  
**UConnect 430**  
**UConnect Voice Command**

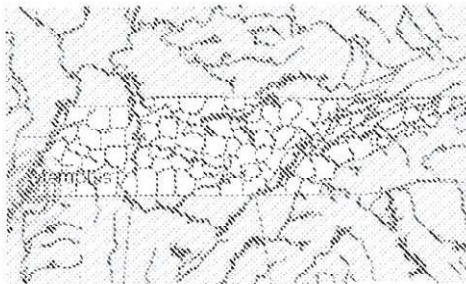
Trim Levels  
 Grand SE, Grand SE Plus, \*Grand SXT, Grand GT \* Indicates your trim level

A detailed description of your vehicle was provided to Autosource by a trained appraiser. Through a partnership with Dodge, Audatex AudaVIN retrieves the individual vehicle specifications to identify the vehicle specifications including equipment, packages, engine and transmission. Contact State Farm Insurance if revisions are necessary. The bold/italic font indicates options reported by the manufacturer.

## Vehicle Condition

Seats	Good
Carpets	Good
Int Trim	Good
Glass	Good
Headliner	Good
Body	Good
Paint	Good
Ext Trim	Good
Engine	Well Maintained
Transmission	Well Maintained
Front Tires	Good
Rear Tires	Good

## Market Overview



### What is my Vehicle Market Value based on?

**38134, Memphis Tennessee** --Research for your vehicle was based on market analysis originating from your zip code.

Fair and accurate market valuations must balance geographic location with comparability of one vehicle to others. Having the largest and most current database of vehicles for sale provides a comprehensive view of your vehicle's market. In addition to the vehicle inventories received directly from dealerships, Autosource finds comparable vehicle information for vehicles in the same places most buyers look for them--local and national internet websites, vehicle guides, publications and partnerships representing more than 10,000 independent vehicle sources.

### How did Autosource make adjustments for my vehicle?

The main factors that affect the retail selling price and marketability of a vehicle are odometer, equipment and condition. Therefore, Autosource valuations include adjustments that fairly consider the differences between your vehicle and the typical vehicle found in the market.

#### o Odometer

- Adjustments are made to account for the odometer differences between the loss vehicle and comparable(s).
- The odometer adjustment is based on 6.50 cents per mile specific to the 2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van in the state of Tennessee. Odometer adjustments are capped at 40% of the vehicle's starting value.

#### o Equipment

- Adjustments are made to account for the differences in equipment between the loss vehicle and comparable(s).



# EXHIBIT I

2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

- Equipment adjustments are based on the manufacturer's retail price, adjusted for depreciation
- o **Condition**
  - Typical condition is based on hundreds of inspected vehicles
  - Condition adjustments are based on a percentage of the vehicle's value

## Comparable Vehicle Details

The following information provides the details for the vehicles used to calculate the Autosource Value. The selling price may be substantially less than the asking price. Where indicated, the asking price has been adjusted to account for typical negotiation according to each comparables price.

1    **2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van**    **2C4RDGCG6HR825992**    **\$15,916**

Stock# HR825992. 47093 Miles. 6 Cylinder Gas Flex Fuel 3.6 Engine, 6-Speed Automatic, SXT Package, UConnect 430, UConnect Voice Command, Auxiliary Audio Input, Anti-Lock Brakes, Automatic Dimming Mirror, Aluminum/Alloy Wheels, Bodyside Moldings, Bucket Seats, Cruise Control, AM/FM CD Player, Chrome Grille, Color-Keyed Bumper(s), Center Console, Dual Airbags, Dual Air Conditioning, Rear Window Defroster, Heated Power Mirrors, Driver Information Sys, Driver Knee Airbag, Dual Power Sliding Doors, Daytime Running Lights, Power Drivers Seat, Elect. Stability Control, Floor Mats, Fog Lights, Head Airbags, Halogen Headlights, Heavy Duty Cooling, Heated Rear Window Wiper, Intermittent Wipers, Illuminated Visor Mirror, Keyless Entry System, 1st Row LCD Monitor(s), LED Brake Lights, Lighted Entry System, Leather Shift Knob, Leather Steering Wheel, Leather Seats, MP3 Decoder, Overhead Console, Perimeter Alarm System, Pwr Accessory Outlet(s), Power Brakes, Pwr Driver Lumbar Supp, Power Door Locks, Power Liftgate, Power Quarter Windows, Power Steering, Power Windows, Roof/Luggage Rack, Rear Climate Control A/C, 2nd Row Head Airbags, Rear Heater, Remote Starter, Rear Step Bumper, Rem Trunk-L/Gate Release, Rear View Camera, Rear Window Wiper/Washer, Side Airbags, Rear Spoiler, Secnd Row Captain Chairs, Sunscreen Glass, Sunvisor, Strg Wheel Radio Control, Tachometer, Trip Computer, Traction Control System, Theft Deterrent System, 3rd Row Head Airbags, Third Seat (trucks), Temperature Gauge(s), Tire Pressure Monitor, Touch Screen Display, Tilt & Telescopic Steer, USB Audio Input(s), Wireless Phone Connect, Wireless Audio Streaming, Audio System, Blue Tooth Communications, Rollover Sensor, Latch System, Child Safety Locks.

Offered for sale by Gossett Motor Cars in Memphis, TN, (901) 388-8989. Vehicle information by \*Leading Internet Auto Site on 03/10/19.

The advertised price of \$16,754 was adjusted to account for typical negotiation.

2    **2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van**    **2C4RDGCG1HR755494**    **\$17,863**

Stock# N9886S. 31043 Miles. 6 Cylinder Gas Flex Fuel 3.6 Engine, 6-Speed Automatic, Blacktop Package, Driver Convenience Group, Single DVD Entertainment, SXT Package, UConnect 430, UConnect Voice Command, Auxiliary Audio Input, Anti-Lock Brakes, Automatic Dimming Mirror, Aluminum/Alloy Wheels, Bodyside Moldings, Bucket Seats, Cruise Control, AM/FM CD Player, Chrome Grille, Color-Keyed Bumper(s), Center Console, Dual Airbags, Dual Air Conditioning, Rear Window Defroster, Heated Power Mirrors, Driver Information Sys, Driver Knee Airbag, Dual Power Sliding Doors, Daytime Running Lights, DVD Player, Power Drivers Seat, Elect. Stability Control, Floor Mats, Fog Lights, Garage Door Opener, Head Airbags, Halogen Headlights, Heavy Duty Cooling, Heated Front Seats, Heated Rear Window Wiper, Heated Steering Wheel, Intermittent Wipers, Illuminated Visor Mirror, Keyless Entry System, 1st Row LCD Monitor(s), LED Brake Lights, Lighted Entry System, Leather Shift Knob, Leather Steering Wheel, Leather Seats, MP3 Decoder, Overhead Console, Perimeter Alarm System, Pwr Accessory Outlet(s), Power Brakes, Pwr Driver Lumbar Supp, Power Door Locks, Power Liftgate, Power Quarter Windows, Power Steering, Power Windows, Roof/Luggage Rack, Rear Climate Control A/C, 2nd Row Head Airbags, Rear Heater, Remote Starter, Rear Step Bumper, Rem Trunk-L/Gate Release, Rear View Camera, Rear Side Wndw Sunshades, Rear Window Wiper/Washer, Side Airbags, Rear Spoiler, Secnd Row Captain Chairs, Sunscreen Glass, Sirius Satellite Radio, Sunvisor, Strg Wheel Radio Control, Tachometer, Trip Computer, Traction Control System, Theft Deterrent System, 3rd Row Head Airbags, Third Seat (trucks), Temperature Gauge(s), Tire Pressure Monitor, Touch Screen Display, Tilt & Telescopic Steer, Three Zone Climate Ctrl, USB Audio Input(s), Wireless Phone Connect, Wireless Audio Streaming, Flex Fuel Option, Seat Belts, Child Safety Locks, Sliding Side Doors, Floor Mats, Center Armrest, Power Outlet, Power sliding doors, Rear Bucket Seats, Rear Power Windows.

Offered for sale by Jim Keras Nissan in Memphis, TN, (901) 373-2800. Vehicle information by Vast on 03/04/19.

The advertised price of \$18,803 was adjusted to account for typical negotiation.

3    **2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van**    **2C4RDGCG1HR828038**    **\$15,010**

Stock# 2000284782. 48806 Miles. 6 Cylinder Gas Flex Fuel 3.6 Engine, 6-Speed Automatic, SXT Package, UConnect 430, UConnect Voice Command, Auxiliary Audio Input, Anti-Lock Brakes, Automatic Dimming Mirror, Aluminum/Alloy Wheels, Bodyside Moldings, Bucket Seats, Cruise Control, AM/FM CD Player, Chrome Grille, Color-Keyed Bumper(s), Center Console, Dual



# EXHIBIT I

2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

Airbags, Dual Air Conditioning, Rear Window Defroster, Heated Power Mirrors, Driver Information Sys, Driver Knee Airbag, Dual Power Sliding Doors, Daytime Running Lights, Power Drivers Seat, Elect. Stability Control, Floor Mats, Head Airbags, Halogen Headlights, Heavy Duty Cooling, Heated Rear Window Wiper, Intermittent Wipers, Keyless Entry System, 1st Row LCD Monitor(s), LED Brake Lights, Lighted Entry System, Leather Seats, MP3 Decoder, Overhead Console, Perimeter Alarm System, Pwr Accessory Outlet(s), Power Brakes, Pwr Driver Lumbar Supp, Power Door Locks, Power Liftgate, Power Quarter Windows, Power Steering, Power Windows, Roof/Luggage Rack, Rear Climate Control A/C, 2nd Row Head Airbags, Rear Heater, Remote Starter, Rear Stop Bumper, Rem Trunk-L/Gate Release, Rear View Camera, Rear Window Wiper/Washer, Side Airbags, Rear Spoiler, Secnd Row Captain Chairs, Sunscreen Glass, Sunvisor, Strg Wheel Radio Control, Tachometer, Trip Computer, Traction Control System, Theft Deterrent System, 3rd Row Head Airbags, Third Seat (trucks), Temperature Gauge(s), Tire Pressure Monitor, Touch Screen Display, Tilt & Telescopic Steer, USB Audio Input(s), Wireless Phone Connect, Wireless Audio Streaming, Flex Fuel Option, Audio System, Shift Knob, Transmission Cooler.

Offered for sale by Dealer in Memphis, TN, (901) 726-3099. Vehicle information by Cars.com on 05/02/19.

The advertised price of \$15,800 was adjusted to account for typical negotiation.

4	2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van	2C4RDGCG5HR847711	\$15,770
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Stock# 2000286191. 42475 Miles. 6 Cylinder Gas Flex Fuel 3.6 Engine, 6-Speed Automatic, SXT Package, UConnect 430, UConnect Voice Command, Auxiliary Audio Input, Anti-Lock Brakes, Automatic Dimming Mirror, Aluminum/Alloy Wheels, Bodyside Moldings, Bucket Seats, Cruise Control, AM/FM CD Player, Chrome Grille, Color-Keyed Bumper(s), Center Console, Dual Airbags, Dual Air Conditioning, Rear Window Defroster, Heated Power Mirrors, Driver Information Sys, Driver Knee Airbag, Dual Power Sliding Doors, Daytime Running Lights, Power Drivers Seat, Elect. Stability Control, Floor Mats, Head Airbags, Halogen Headlights, Heavy Duty Cooling, Heated Rear Window Wiper, Intermittent Wipers, Keyless Entry System, 1st Row LCD Monitor(s), LED Brake Lights, Lighted Entry System, Leather Seats, MP3 Decoder, Overhead Console, Perimeter Alarm System, Pwr Accessory Outlet(s), Power Brakes, Pwr Driver Lumbar Supp, Power Door Locks, Power Liftgate, Power Quarter Windows, Power Steering, Power Windows, Roof/Luggage Rack, Rear Climate Control A/C, 2nd Row Head Airbags, Rear Heater, Remote Starter, Rear Stop Bumper, Rem Trunk-L/Gate Release, Rear View Camera, Rear Window Wiper/Washer, Side Airbags, Rear Spoiler, Secnd Row Captain Chairs, Sunscreen Glass, Sunvisor, Strg Wheel Radio Control, Tachometer, Trip Computer, Traction Control System, Theft Deterrent System, 3rd Row Head Airbags, Third Seat (trucks), Temperature Gauge(s), Tire Pressure Monitor, Touch Screen Display, Tilt & Telescopic Steer, USB Audio Input(s), Wireless Phone Connect, Wireless Audio Streaming, Flex Fuel Option, Audio System, Shift Knob, Transmission Cooler.

Offered for sale by Dealer in Memphis, TN, (901) 726-3099. Vehicle information by Cars.com on 04/30/19.

The advertised price of \$16,600 was adjusted to account for typical negotiation.

## Administrative Data

Drexcell KYOW	Claimant
State Farm Insurance	Insured Clippinger
DULUTH DEMAND POOL Branch	Claim 42-8782-D0301
11350 Johns Creek Parkway	Loss Date 05/10/2019
Duluth GA 30098	Loss Type Collision
	Policy
	Other

License Expiration 2019-12

## VINSOURCE Analysis

VIN 2C4RDGCG9HR858758  
 Decodes as 2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van  
 Accuracy Decodes Correctly  
 History No activity was reported  
 AudaVIN Yes

# EXHIBIT I

2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

## NICB Report

NICB/ISO S037 STATE FARM MUTUAL AUTOMOBILE INSURANCE  
Member COMPANY

Claim 428782D03

Loss Date 05/10/19

Type of Loss PROPERTY/CASUALTY

Phone

## Recall Bulletins

Nat'l. Highway Traffic Safety Admin (US) has issued a total of 2 recall bulletins that may apply to this vehicle.

**NHTSA ID Number** 18V098000

Date Issued 02/08/18

Quantity Affected 39,456

**Defect** Chrysler (FCA US LLC) is recalling certain 2017 Dodge Caravan and Jeep Wrangler vehicles. The brake switches on these vehicles may malfunction, keeping the brake lights illuminated and/or allowing the vehicle to be shifted out of the PARK position without the brake pedal being pushed.

**Remedy** Chrysler will notify owners, and dealers will replace the brake switches, free of charge. The recall is expected to begin March 30, 2018. Owners may contact Chrysler customer service at 1-800-853-1403. Chrysler's number for this recall is U09.

**NHTSA ID Number** 18V524000

Date Issued 08/09/18

Quantity Affected 12,779

**Defect** Chrysler (FCA US LLC) is recalling certain 2018 Jeep Renegade, Compass and Grand Cherokee, RAM 1500 and Promaster, Fiat 500x, Dodge Journey, Challenger, Charger and Durango and Chrysler 300x vehicles, 2017-2018 Jeep Wrangler, Dodge Grand Caravan and Chrysler Town and Country vehicles and 2018-2019 Jeep Cherokee and Chrysler Pacifica vehicles. The powertrain control module may be equipped with a voltage regulator chip in the circuit board that may fail, causing a stall or a no start condition.

**Remedy** Chrysler will notify owners, and dealers will replace the powertrain control module, free of charge. The recall is expected to begin September 28, 2018. Owners may contact Chrysler customer service at 1-800-853-1403. Chrysler's number for this recall is U87.

## Original Equipment Guide

Engine Options		Transmission Options	
* 6 Cylinder Gas Flex Fuel 3.6 Engine	STD	* 6-Speed Automatic	STD
Other Optional Equipment		Convenience Options	
* Anti-Lock Brakes	STD	* Automatic Dimming Mirror	STD
Auto Load Leveling	\$290	* Cruise Control	STD
All-Weather Mats (Floor)		* Dual Air Conditioning	STD
* Bodyside Moldings	STD	* Rear Window Defroster	STD
* Chrome Grille	STD	* Daytime Running Lights	STD
* Color-Keyed Bumper(s)	STD	* Floor Mats	STD
Compact Spare Tire	\$395	Garage Door Opener	
* Center Console	STD	Illuminated Visor Mirror	
* Dual Airbags	STD	Mud/Splash Guards	
* Driver Information Sys	STD	* Rear Climate Control A/C	STD
* Driver Knee Airbag	STD	* Rem Trunk-L/Gate Release	STD
DVD Player		* Rear View Camera	STD
Engine Block Heater	\$95	Rear Side Wndw Sunshades	\$100



# EXHIBIT I

2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

* Elect. Stability Control	STD	* Strg Wheel Radio Control	STD
Fog Lights		* Tire Pressure Monitor	STD
* Head Airbags	STD	* Tilt & Telescopic Steer	STD
* Halogen Headlights	STD	Three Zone Climate Ctrl	
* Heavy Duty Cooling	STD	<b>Power Accessories</b>	
* Heated Rear Window Wiper	STD	* Heated Power Mirrors	STD
Heated Steering Wheel		* Dual Power Sliding Doors	STD
* Intermittent Wipers	STD	* Power Drivers Seat	STD
* Keyless Entry System	STD	* Power Brakes	STD
* 1st Row LCD Monitor(s)	STD	* Pwr Driver Lumbar Supp	STD
* LED Brake Lights	STD	* Power Door Locks	STD
* Lighted Entry System	STD	* Power Liftgate	STD
Leather Shift Knob		* Power Quarter Windows	STD
Leather Steering Wheel		* Power Steering	STD
Navigation System		* Power Windows	STD
* Overhead Console	STD	<b>Radio/Phone/Alarm Options</b>	
* Pwr Accessory Outlet(s)	STD	* Auxiliary Audio Input	STD
* Pearlescent Paint		* AM/FM CD Player	STD
* Roof/Luggage Rack	STD	* MP3 Decoder	STD
Rear Entertainment System		* Perimeter Alarm System	STD
* 2nd Row Head Airbags	STD	Sirius Satellite Radio	
* Rear Heater	STD	* Theft Deterrent System	STD
* Remote Starter	STD	* Touch Screen Display	STD
Running Boards	\$720	* USB Audio Input(s)	STD
Roof Rails	\$395	<b>Seat Options</b>	
* Rear Step Bumper	STD	* Bucket Seats	STD
* Rear Window Wiper/Washer	STD	Heated Front Seats	
* Side Airbags	STD	* Leather Seats	STD
* Rear Spoiler	STD	* Secnd Row Captain Chairs	STD
* Sunscreen Glass	STD	* Third Seat (trucks)	STD
* Sunvisor	STD	<b>Wheel Options</b>	
* Tachometer	STD	* Aluminum/Alloy Wheels	STD
* Trip Computer	STD		
* Traction Control System	STD		
* 3rd Row Head Airbags	STD		
* Temperature Gauge(s)	STD		
* Wireless Phone Connect	STD		
* Wireless Audio Streaming	STD		
In-Vehicle WiFi	\$675		
<b>Option Packages</b>			
Blacktop Package	\$595	Includes Fog Lights, Leather Shift Knob, Leather Steering Wheel, Black Interior Accents, Silver Accent Stitching, Black Headlamp Bezels, Rear Fascia Scuff Pad, Gloss Black Grille	
Driver Convenience Group	\$995	Includes Garage Door Opener, Heated Front Seats, Heated Steering Wheel, Illuminated Visor Mirror, Rear Side Wndw Sunshades, Three Zone Climate Ctrl, Overhead Storage Bins, Cupholders W/Overhead Illumination, Single Rear Overhead Console System, Overhead Ambient Surround Lighting, Rear Swiveling Reading/Courtesy Lamps	
Mobility Prep w/Load Lvlg	\$145	Includes Auto Load Leveling, Delete Second Row Seats, Delete Heated Second Row Seats	

# EXHIBIT I

2017 Dodge Caravan Grand SXT 2WD 4D Passenger Van

Mopar Prem Addition Grp	\$350	Includes All-Weather Mats (Floor), Mud/Splash Guards, MOPAR Door Sill Guards
Single DVD Entertainment	\$995	Includes DVD Player, Sirius Satellite Radio, Wireless Headphones, Video Remote Control, 2nd Row Overhead 9 Inch Video Screen, High Definition Multimedia Interface, Charge Only Remote USB Port, 2nd Row Overhead DVD Console, 115v Auxiliary Power Outlet
* SXT Package	STD	
* UConnect 430	STD	Includes Hard Disc Drive, 6.5 Inch Touch Screen Display, 6 Speaker System
UConnect 430N	\$995	Includes Navigation System, Sirius Satellite Radio, SIRIUS Travel Link
* UConnect Voice Command	STD	Includes Uconnect Voice Command W/Bluetooth
Window Package	\$100	Includes 2nd & 3rd Row Window Shades
		Base retail price \$32,490
<b>Loss Vehicle manufacturer's suggested retail price as reported</b>		<b>\$32,490</b>

Editions available for the same body style (in order of original cost, increasing): Grand SE, Grand SE Plus, \*Grand SXT, Grand GT

\* Indicates loss vehicle equipment.

## About Your Valuation

This report contains proprietary information of Audatex and third parties and shall not be disclosed to any third party (other than the insured or claimant) without Audatex's prior written consent. If you are the insured or claimant and have questions regarding the description of your vehicle, please contact the insurance company that is handling your claim. Information within VINsource/NICB is provided solely to identify potential duplicative claims activity. User agrees to use such information solely for lawful purposes.

Tax rates contained herein are based on general sales tax data provided by Vertex Inc. Excise, use, registration, licensing and other taxes and fees that may be applicable are not included. Audatex makes no representations or warranties concerning the applicability or accuracy of such tax data.

## Tennessee Regulatory Statement

It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

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IN THE CIRCUIT COURT OF SHELBY COUNTY TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

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JESSICA CLIPPINGER, on behalf of  
herself and all others similarly situated,

Plaintiff,

v.

STATE FARM MUTUAL  
AUTOMOBILE INSURANCE COMPANY,

Defendant.

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No.: CT-1844-20  
Division: VIII  
JURY DEMANDED

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**AMENDED CLASS ACTION COMPLAINT**

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Plaintiff Jessica Clippinger (“Plaintiff”), brings this class action on behalf of herself and all others similarly situated, by and through undersigned counsel, and for her Complaint against State Farm Mutual Automobile Insurance Company (“Defendant” or “State Farm”) states and alleges as follows:

**INTRODUCTION**

1. This is a class action whereby Plaintiff seeks, for herself and all other similarly situated insured customers or former customers of State Farm, declaratory and injunctive relief, as well as compensatory damages and other appropriate remedies, resulting from State Farm’s common policy and general business practice of using arbitrary and unexplained adjustments to improperly reduce insureds’ total loss valuations and claims payments in violation of its contractual obligations and Tennessee law.

2. When valuing total loss claims for vehicles, it is improper for an automobile insurance company, such as State Farm, to undervalue and underpay the claims by manipulating the data used to value the vehicles. Specifically, under its insurance policies’

terms, State Farm has a contractual duty to pay the actual cash value of a loss vehicle when adjusting total loss claims. This contractual obligation is consistent with applicable Tennessee law, which provides that State Farm must make any deductions from the actual cash value as specific as reasonably possible, and specific and appropriate with regards to the dollar amount when adjusting first-party automobile total loss claims.

3. Notwithstanding its contractual obligations, State Farm systemically fails to pay its insureds the actual cash value of their total loss vehicles by taking improper and unreasonable adjustments that are not fully explained in order to artificially decrease its insureds' recovery.

4. State Farm applied an adjustment for a typical negotiation ("Typical Negotiation Adjustment"), resulting in, on average, an 8.5% downward adjustment to each of the base values of the comparable vehicles, which were then used to derive the value of Plaintiff's total loss vehicle. This 8.5% reduction is wholly arbitrary and not based on any statistical, objective, or verifiable data. The adjustment was applied on each of the comparable vehicles on top of adjustments for differences such as mileage, options, and equipment. The deduction is not as specific as reasonable possible or appropriate as to dollar amount, and no explanation is provided as to the evidentiary basis for the 8.5% reduction. The only purported explanation for the downward adjustments in Plaintiff's multi-page valuation report is a general, nondescript statement buried deep in the document (*see* Exhibit 1 at pp. 8 and 9), providing the reduction is "to account for typical negotiation."

5. Moreover, pursuant to its contracts of insurance, State Farm must consider a vehicle's fair market value when settling a total loss claim for actual cash value. The



Typical Negotiation Adjustment, however, is not based in fact, as it is contrary to the used car industry's market pricing and inventory management. Automobile dealers' internet list prices are priced to market, in part to reflect the intense competition in the context of internet pricing and comparison shopping. Thus, it would be atypical for an insured engaged in a so-called "typical negotiation" to be able to secure a reduction of the online list price—much less an 8.5% reduction. In short, the Typical Negotiation Adjustments are statistically invalid adjustments premised on unknown, unexplained, and factually erroneous assumptions to deliberately undervalue policyholders' total loss claims and understate the fair market value of total loss vehicles.

6. This pattern and practice of undervaluing comparable and total loss vehicles when paying first-party automobile total loss claims, which benefits the insurer at the expense of the insured, is not permitted under the terms of State Farm's policies with its insureds, nor under Tennessee law applicable to insurance contracts.

### **JURISDICTION AND VENUE**

7. Plaintiff and all proposed class members are citizens of the State of Tennessee. State Farm is an insurance company authorized to do business in the State of Tennessee, and, at all relevant times hereto, was engaged in the marketing, sale, and issuance of automobile insurance policies in the State of Tennessee.

8. The compensatory damages being sought by Plaintiff do not exceed \$75,000, and no individual member of the Class would possess a compensatory damage claim in excess of \$75,000. Additionally, the aggregate compensatory damages (in the amount of Typical Negotiation Adjustments wrongfully deducted without itemization or

explanation), claimed by Plaintiff and the Class are below the \$5,000,000 federal jurisdictional threshold under the Class Action Fairness Act (“CAFA”).

9. Accordingly, this Court has jurisdiction over the parties pursuant to Tenn. Code Ann. § 16-10-113, as the policies at issue were issued in this state.

10. Venue is proper pursuant to Tenn. Code Ann. § 20-4-101(a).

### **PARTIES**

11. Plaintiff Jessica Clippinger resides in Shelby County and is a citizen of the state of Tennessee. At all relevant times hereto, Plaintiff was contracted with State Farm for automobile insurance. On or about May 10, 2019, Plaintiff’s insured vehicle was deemed a total loss.

12. Defendant State Farm is an automobile insurance company that owns numerous offices throughout the United States, including the state of Tennessee. Defendant State Farm’s corporate headquarters are located at One State Farm Plaza, Bloomington, IL 61710. Defendant State Farm conducts business in Tennessee through insurance agents and other company personnel.

### **FACTUAL ALLEGATIONS**

#### **A. State Farm’s Improper Valuation of Total Loss Claims.**

13. State Farm sells automobile insurance that provides coverage for property damage done to a vehicle, whether by collision, theft, or other perils.

14. Plaintiff, like all proposed class members, currently has, had, or was covered under a contract of automobile insurance with State Farm. The contract of insurance between Plaintiff, as well as each proposed class member, and State Farm provides coverage for the total loss of a vehicle on the basis of actual cash value or

replacement with another of like kind and quality. The determination of a loss vehicle's actual cash value includes consideration of the vehicle's fair market value. The material policy language for all State Farm policies during the relevant time period is identical or substantially the same.

15. State Farm systematically bases its valuations and payments on total loss claims on manipulated data and reports that do not meet State Farm's duties under its insurance contracts, imposing unreasonable, inappropriate, and unspecific Typical Negotiation Adjustments to artificially reduce the values of comparable vehicles. Moreover, these deductions have no basis in fact and significantly understate the actual cash value of insureds' total loss vehicles.

16. Upon information and belief, to calculate its valuations and claims payments, State Farm obtains a market valuation report from a third-party company called Audatex. Audatex uses a software program called "Autosource Market-Driven Valuation" ("AMDV") to calculate the value of a total loss vehicle. The AMDV software was designed for use by insurance companies and is not an objective industry source used to determine the actual retail cost of used cars.

17. The AMDV software program purports to contain values for comparable vehicles recently sold or for sale in the geographic area of the insured. The valuation reports generated by the AMDV software program also purport to contain values for the loss vehicle based upon the data for the comparable vehicles in the report. Upon information and belief, State Farm instructs Audatex as to what specific data to include in the report as the basis for the valuation, including whether to apply a Typical Negotiation Adjustment to the comparable vehicles.

18. The AMDV report starts with itemized internet sales prices for specified comparable vehicles acquired from various dealers. However, rather than utilizing this actual price data, the AMDV report instead applies a downward adjustment “to account for typical negotiation.” Thus, State Farm is not providing its insureds with the actual cash value or actual cost of the comparable vehicles based upon actual data acquired by State Farm or Audatex. Instead, rather than using the actual data obtained, State Farm wrongly applies a significant deduction based on an invalid and unexplained assumption that the insured can negotiate a lower price. In short, rather than paying actual cash value, State Farm pays less than actual cash value; leaving it to the insureds to make up the difference by engaging in what State Farm describes as a “typical negotiation” and achieving a better deal.

19. State Farm provides no data or explanation of industry practices in its valuation reports to support *any* Typical Negotiation Adjustment, much less one at 8.5%. The only stated reason given for its 8.5% downward adjustment to the list prices of the comparable vehicles is: “The selling price *may* be substantially less than the asking price. When indicated, the asking price has been adjusted to account for typical negotiation according to each comparables [sic] price.” Ex. 1 at p. 8. However, an 8.5% reduction on a used vehicle’s internet price is not typical and does not reflect market realities.

20. Most fundamentally, this assumption is contrary to customary automobile dealer practices and inventory management where list prices are priced to market, in part to reflect the intense competition in the context of internet pricing and comparison shopping. An 8.5% reduction would be atypical and therefore is not proper to include in determining actual cash value. The inclusion of this significant downward adjustment

purportedly premised on a “typical negotiation” is particularly improper in the context of this action—insureds who have suffered a total loss of their vehicle need to procure a replacement and have limited time to search out the atypical opportunity to obtain the below-market deal Defendant presumes to always exist without explanation or discernable, specified or itemized support.

21. Moreover, State Farm provides no explanation as to how it arrived at the amount to be deducted. Instead, State Farm provides an arbitrary deduction, that is not adequately specified nor explained and, as such, cannot be verified. State Farm does not explain whether there is *any* reference source or data that was used in making its assumption much less specify and itemize such data (if it exists).

22. Furthermore, State Farm unreasonably buries its Typical Negotiation Adjustment at the back of the valuation report in an effort to obscure this deduction. For example, the report begins with a “Valuation Detail” section that purports to display the price of each comparable vehicle and then to itemize all “adjustments.” Ex. 1 at pp. 4-6. Although this section displays any adjustments for mileage, options and equipment, it does not disclose the Typical Negotiation Adjustments. Instead, the displayed “Price” is not the actual price data collected by State Farm and Audatex, but rather, it is that price *after* the application of the downward Typical Negotiation Adjustment. In addition, the “Market Overview” section explains the mileage, options and equipment adjustments but makes no mention of the Typical Negotiation Adjustments. *Id.* at pp. 7-8. Rather, the Typical Negotiation Adjustments are hidden at the back of the report in paragraphs detailing the packages and options of the comparable vehicles in a section titled “Comparable Vehicle Details.” *Id.* at 8-9. However, even this section displays a bolded price at the top for each

comparable vehicle, only explaining in non-bolded typeface at the bottom that the bolded price is not the actual price data for the vehicle.

23. Along with hiding this adjustment at the back of the valuation report, State Farm fails to specify the dollar amount of the deduction and fails to fully explain this deduction to insureds. Rather, the insured has to perform a calculation to ascertain the specific dollar amount and/or percentage that was deducted and is left to guess as to what this number was derived from and/or based upon.

24. For Plaintiff, the valuation report used a “Typical Negotiation Adjustment” to reduce the value of each comparable vehicle by, on average, 8.5%. Consequently, this improperly reduced Plaintiff’s recovery under her policy by approximately 8.5%. These reductions bear no relation to the actual fair market value of the comparable vehicles or the loss vehicle. The price of each comparable vehicle used in the Audatex Report was pulled from a dealer internet listing and, therefore, was priced to market. Exhibit 1 at pp. 8-9. The application of these arbitrary, nonitemized, and unexplained Typical Negotiation Adjustments to reduce the value of comparable vehicles artificially reduces the valuation of the loss vehicle to benefit the insurer at the expense of the insured. State Farm’s actions and improper valuations violate its contractual obligations and Tennessee law applicable to insurance settlement practices.

**B. State Farm Undervalued and Underpaid Plaintiff’s Total Loss Claim.**

25. Plaintiff owned a 2017 Dodge Grand Caravan SXT 2WD 4 door passenger van that was deemed a total loss on or around May 10, 2019.

26. Plaintiff made a claim with State Farm for the total loss of her vehicle.

27. State Farm provided a total loss valuation to Plaintiff for her total loss claim. State Farm based its offer upon a valuation report obtained from Audatex using the AMDV software program.

28. State Farm valued Plaintiff's total loss claim at \$14,490.00<sup>1</sup> and paid Plaintiff that amount. State Farm's valuation was based on a market valuation report obtained from Audatex using the AMDV software program. The market valuation report listed values of four different comparable vehicles and applied a Typical Negotiation Adjustment of approximately 8.5% to all four vehicles without itemizing or explaining the basis of the adjustment and/or how the value of the deduction was determined. The use of the Typical Negotiation Adjustment to adjust Plaintiff's total loss claim downward violates the applicable insurance policy, in that Defendant applied the improper adjustment to pay Plaintiff less than the actual cash value of her total loss vehicle.

### **CLASS ACTION ALLEGATIONS**

29. This action is brought by Plaintiff as a class action, on her own behalf and on behalf of all others similarly situated, under the provisions of Rules 23.01 and 23.02 of the Tennessee Rules of Civil Procedure, for declaratory judgment and monetary restitution, plus interest, injunctive relief, costs, and attorney's fees. Plaintiff seeks certification of this action as a class action on behalf of the following class (the "Class"):

All persons insured by a contract of automobile insurance issued by State Farm to a Tennessee resident, and who, from the earliest allowable time through the date of resolution of this action, received a first-party total loss valuation and payment that included a downward adjustment premised on a "Typical Negotiation Adjustment" or similar adjustment.

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<sup>1</sup> This amount is not inclusive of tax, title, and transfer fees.

30. Excluded from the Class are Defendants, any parent, subsidiary, affiliate, or controlled person of Defendants, as well as the officers, directors, agents, servants, or employees of Defendants and the immediate family members of any such person. Also excluded is any judge who may preside over this cause of action.

31. The exact number of the Class, as herein identified and described, is not known, but it is estimated to be at least one hundred. Accordingly, the Class is so numerous that joinder of individual members herein is impracticable.

32. There are common questions of law and fact in the action that relate to and affect the rights of each member of the Class, and the relief sought is common to the entire class. In particular, the common questions of law and fact include:

- a. Whether State Farm systemically applied Typical Negotiation Adjustments or substantially similar adjustments to calculate the value of total loss vehicles;
- b. Whether, through the above referenced practice, State Farm failed to pay its insureds the actual cash value of their loss vehicles;
- c. Whether, through the above referenced practice, State Farm breached its contracts with its insureds;
- d. Whether Plaintiff and the Class are entitled to declaratory and injunctive relief; and
- e. Whether Plaintiff and the Class are entitled to compensatory damages in the amount of the invalid adjustment applied to Plaintiff's and each Class member's valuation.



33. The claims of the Plaintiff, who is representative of the Class herein, are typical of the claims of the proposed Class, in that the claims of all members of the proposed Class, including the Plaintiff, depend on a showing of the same acts of State Farm giving rise to the right of Plaintiff to the relief sought herein. There is no conflict between the individually named Plaintiff and other members of the proposed Class with respect to this action, or with respect to the claims for relief set forth herein.

34. The named Plaintiff is the representative party for the Class, and is able to, and will fairly and adequately, protect the interests of the Class. The attorneys for Plaintiff and the Class are experienced and capable in complex civil litigation, insurance litigation, and class actions.

35. Class certification is appropriate under Tennessee Rules of Civil Procedure Rule 23.02(2) because State Farm's actions are generally applicable to the Class as a whole, and Plaintiff seeks equitable remedies with respect to the Class as a whole.

36. Class certification is also appropriate under Tennessee Rules of Civil Procedure Rule 23.02(3) because the common questions of law and fact in this case predominate over questions affecting only individual members of the Class, and a class action is the superior method for fair and efficient adjudication of the controversy. The likelihood that individual members of the Class will prosecute separate actions is remote due to the time and expense necessary to conduct such litigation. The class action procedure would permit a large number of injured persons to prosecute common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of evidence and effort. Class treatment also would permit the adjudication of claims by Class members

whose claims are too small and complex to individually litigate against a large corporate defendant.

**FIRST CAUSE OF ACTION**  
**BREACH OF CONTRACT**

37. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

38. State Farm's insurance contract with its insureds provides coverage for the total loss of a vehicle on the basis of actual cash value or replacement with another of like kind and quality. Moreover, in determining the actual cash value of a total loss vehicle, State Farm must consider the vehicle's fair market value at the time of loss.

39. State Farm has breached its contract with Plaintiff and the members of the Class by not paying total loss claims upon the actual cash value of loss vehicles. State Farm departed from the use of actual cash value by basing its valuations and claims payments on the values of comparable vehicles that have been artificially reduced by an unjustified Typical Negotiation Adjustment that is (a) arbitrary, (b) contrary to industry practices and consumer experiences (and therefore not reflective of the vehicle's fair market value), and (c) not specific or appropriate as to dollar amount.

40. State Farm's policy, and its duties to insureds, must be construed in the context of, and consistent with, Tennessee law applicable to insurance contracts. In Tennessee, for total loss claims that deviate from providing actual cost values, "[a]ny deductions from the cost, including deduction for salvage, must be as specific as reasonably possible, and specific and appropriate as to dollar amount . . . ." Tenn. Comp. R. & Regs. R. 0780-01-05-.09(c). The purpose of this requirement is to ensure that any adjustments

are reasonable, justified, and fully explained to ensure that consumers have the ability to evaluate and challenge any deductions that are improper and/or without basis.

41. State Farm's breaches have resulted in a systemic failure to pay the actual cash value of total loss vehicles as required under the contract.

42. State Farm's breaches of contract and violations of law have caused damages to Plaintiff and the Class. Plaintiff's and proposed Class members' damages include the amounts improperly deducted by State Farm from the insureds' payments on the basis of a Typical Negotiation Adjustment.

**SECOND CAUSE OF ACTION**  
**BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**

43. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

44. Implied in each of Defendants' insurance policies is a covenant that Defendants will act in good faith and deal fairly with their insureds; that they will do nothing to interfere with their insureds' rights to receive the benefits of the policies; that they will not place their own interests before those of their insureds; that they will exercise diligence, good faith, and fidelity in safeguarding the interest of their insureds; and that they will deal ethically with their insureds and will fairly and adequately inform them of the nature and scope of their insurance coverage (hereinafter referred to as "covenant of good faith and fair dealing").

45. Defendants have breached the covenant of good faith and fair dealing by, inter alia:

- a. Intentionally applying Typical Negotiation Adjustments to undervalue comparable vehicles, and, in turn, insureds' total loss vehicles;

- b. Failing to pay insureds the actual cash value of their total loss vehicles;
- c. Interpreting the terms and conditions of their insurance policies in an unreasonable manner, which is inconsistent with applicable law, solely in an effort to understate the fair market value of total loss vehicles and avoid paying insureds the actual cash value on their total loss claims; and
- d. Inventing spurious grounds for undervaluing total loss claims that are hidden, not specific in dollar amount, not adequately explained, and unreasonable.

46. Plaintiff is informed and believes and alleges thereon that Defendants are in breach of the covenant of good faith and fair dealing and did the acts complained of herein, among others, for the purpose of undervaluing comparable and total loss vehicles and underpaying insureds' the actual cash value of their total loss claims.

47. State Farm's breaches of the covenant of good faith and fair dealing have caused damages to Plaintiff and the Class. Plaintiff's and proposed Class members' damages include the amounts improperly deducted by State Farm from the insureds' payments on the basis of a Typical Negotiation Adjustment.

**THIRD CAUSE OF ACTION**  
**DECLARATORY JUDGMENT**

48. Plaintiff hereby repeats and realleges all preceding paragraphs contained herein.

49. A dispute between Plaintiff and the proposed Class and State Farm is before this Court under Tenn. Code Ann. §§ 29-14-101, *et seq.* concerning the construction of the auto insurance policies issued by Defendant and the rights arising under that policy.

50. Plaintiff, for herself and on behalf of the Class, seeks a declaration of rights and liabilities of the parties herein. Specifically, Plaintiff is seeking a declaration that in paying total loss claims with first-party insureds, it is a breach of the insurance contract with State Farm, as well as a violation of Tennessee law, for State Farm to base the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments that are (a) arbitrary, (b) contrary to industry practices and consumer experiences (and therefore not reflective of the vehicle's fair market value), and (c) not as specific as reasonably possible or appropriate as to dollar amount.

51. State Farm's unlawful common policy and general business practice as described herein are ongoing. Accordingly, State Farm has breached, and continues to breach, the express terms of its contracts of insurance with Plaintiff and members of the Class requiring it to settle total loss claims on the basis of the total loss vehicle's actual cash value.

52. As a result of these breaches of contract, Plaintiff and the proposed Class members have been injured. Plaintiff's and proposed Class members' damages include the amounts illegally deducted by State Farm from the insureds' payments.

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, respectfully requests that this Court:

- a) determine that this action may be maintained as a class action under Rule 23 of the Tennessee Rules of Civil Procedure, appoint Plaintiff as class representative, and appoint undersigned counsel as Class Counsel;
- b) enter an order finding that State Farm's actions described herein constitute a breach of contract;
- c) enter a declaratory judgment that in paying total loss claims with first-party insureds, it is a breach of the insurance contract with State Farm, as well as a violation of Tennessee law, for State Farm to base the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments;
- d) enter an order enjoining State Farm from basing the valuation and payment of claims on values of comparable vehicles that have been reduced by Typical Negotiation Adjustments;
- e) enter an order requiring State Farm to pay compensatory damages to Plaintiff and all members of the proposed class in the amount of 100% of the proceeds that State Farm wrongfully deducted from its insureds' payments in the form of Typical Negotiation Adjustments or alternatively enter an order requiring State Farm to prepare a total loss valuation for Plaintiff and each member of the Class that does not include any Typical Negotiation Adjustments or any other deductions that are arbitrary, unmeasurable, indiscernible, nonitemized, or not as specific as reasonably possible or appropriate as to dollar amount;

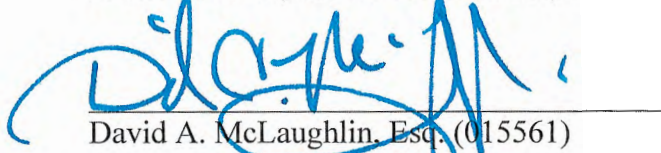
- f) award pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;
- g) award reasonable attorneys' fees and costs pursuant to applicable law; and
- h) grant such other legal and equitable relief as the Court may deem appropriate.

**JURY DEMAND**

Plaintiff and the Class members hereby request a trial by jury.

Respectfully submitted,

RAINWATER, HOLT & SEXTON, P.A.



David A. McLaughlin, Esc. (015561)

Attorney for the Plaintiff

254 Court Avenue – Suite 209A

Memphis, TN 38103

(901) 567-8286 phone

(901) 630-4359 fax

[DMcLaughlin@RainFirm.com](mailto:DMcLaughlin@RainFirm.com)

-And-

HANK BATES, *pro hac pending*

TIFFANY WYATT OLDHAM, *pro hac pending*

**CARNEY BATES & PULLIAM, PLLC**

519 W. 7<sup>th</sup> St.

Little Rock, AR 72201

Tel: (501) 312-8500

Fax: (501) 312-8505

*Counsel for Plaintiff and the Proposed Class*

**CIRCUIT COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

ELECTRONICALLY FILED  
2020 Jun 03 12:35 PM  
CLERK OF COURT

**SUMMONS IN CIVIL ACTION**

Docket No. CT-1844-20

☒ Lawsuit  
☐ Divorce

Ad Damnum \$ See Complaint

JESSICA CLIPPINGER on behalf of herself  
and all others similarly situated

VS

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY

Plaintiff(s)

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

Serve through the Tennessee Commissioner of Insurance,  
SERVED PURSUANT TO T.C.A. 56-7-1206, Tennessee Uninsured  
Motorist Statute.

Policyholder: Jessica Clippinger, Policy Number 226491042F

Method of Service:

- ☐ Certified Mail  
☐ Shelby County Sheriff  
☒ Commissioner of Insurance (\$)  
☐ Secretary of State (\$)  
☐ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ Attach Required Fees

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

serving a copy of your answer to the Complaint on **David A. McLaughlin**

Plaintiff's

attorney, whose address is **254 Court Avenue, Suite 209A, Memphis, TN 38103**

telephone **(901) 671-1551**

within THIRTY (30) DAYS after this summons has been served upon you, not including the day of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

TEMIKA D. GIPSON, Clerk / W. AARON HALL, Clerk and Master

TESTED AND ISSUED \_\_\_\_\_ By \_\_\_\_\_, D.C.

TO THE DEFENDANT:

NOTICE; Pursuant to Chapter 919 of the Public Acts of 1980, you are hereby given the following notice:

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed. These include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

FOR AMERICANS WITH DISABILITIES ACT (ADA) ASSISTANCE ONLY, CALL (901) 222-2341

I, TEMIKA D. GIPSON / W. AARON HALL, Clerk of the Court, Shelby County, Tennessee, certify this to be a true and accurate copy as filed this

20\_\_

TEMIKA D. GIPSON, Clerk / W. AARON HALL, Clerk and Master By: \_\_\_\_\_, D.C.



RETURN OF SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I **HAVE** SERVED THE WITHIN SUMMONS:

By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M. a copy of the summons  
and a copy of the Complaint to the following Defendant \_\_\_\_\_  
at \_\_\_\_\_

\_\_\_\_\_  
Signature of person accepting service

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process

RETURN OF NON-SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I **HAVE NOT** SERVED THE WITHIN SUMMONS:

To the named Defendant \_\_\_\_\_  
because \_\_\_\_\_ is (are) not to be found in this County after diligent search and inquiry for the following  
reason(s): \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process



**The Shelby County, Tennessee Circuit Court**

**Case Style:** JESSICA CLIPPINGER VS STATE FARM PROP AND CAS CO

**Case Number:** CT-1844-20

**Type:** SUMMONS ISSD TO MISC

Maria Cano, DC

Electronically signed on 06/03/2020 12:58:23 PM

**STATE OF TENNESSEE**  
**Department of Commerce and Insurance**  
**500 James Robertson Parkway**  
**Nashville, TN 37243-1131**  
**PH - 615.741.1670, FX - 615.532.2788**  
**Service.Process@tn.gov**

**FILED**  
JUN 17 2020  
CIRCUIT COURT CLERK  
BY \_\_\_\_\_ D.C.

May 26, 2020

State Farm Insurance Company  
2500 Memorial Boulevard  
Murfreesboro, TN 37131-0001  
NAIC # 2880

Certified Mail  
Return Receipt Requested  
7019 1120 0000 4178 7271  
Cashier # 53565

Re: Jessica Clippinger V. State Farm Insurance Company

Docket # Ct-1844-20

To Whom It May Concern

Pursuant to Tennessee Code Annotated §56-2-504 or § 56-2-506, the Department of Commerce and Insurance was served May 15, 2020, on your behalf in connection with the above-styled proceeding. Documentation relating to the subject is herein enclosed.

Designated Agent  
Service of Process

Enclosures

cc: Circuit Court Clerk  
Shelby County  
140 Adams Street, Rm 324  
Memphis, Tn 38103

CIRCUIT COURT OF TENNESSEE  
140 ADAMS AVENUE, MEMPHIS, TENNESSEE 38103  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

ELECTRONICALLY FILED  
2020 May 08 1:48 PM  
CLERK OF COURT

**SUMMONS IN CIVIL ACTION**

Docket No. \_\_\_\_\_

☒ Lawsuit  
☐ Divorce

Ad Damnum \$ See Complaint

JESSICA CLIPPINGER, on behalf of herself  
and all others similarly situated

VS

STATE FARM PROPERTY AND  
CASUALTY COMPANY

Plaintiff(s)

Defendant(s)

TO: (Name and Address of Defendant (One defendant per summons))

Method of Service:

STATE FARM PROPERTY AND CASUALTY COMPANY

Serve through the Tennessee Commissioner of Insurance,  
SERVED PURSUANT TO T.C.A. 56-7-1206, Tennessee Uninsured  
Motorist Statute.  
Policyholder: Jessica Clippinger, Policy Number 226491042F

- ☐ Certified Mail  
☐ Shelby County Sheriff  
☒ Commissioner of Insurance (\$)  
☐ Secretary of State (\$)  
☐ Other TN County Sheriff (\$)  
☐ Private Process Server  
☐ Other

(\$ Attach Required Fees

You are hereby summoned and required to defend a civil action by filing your answer with the Clerk of the Court and

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Plaintiff's

attorney, whose address is 254 Court Avenue, Suite 209A, Memphis, TN 38103

telephone (901) 671-1551

within THIRTY (30) DAYS after this summons has been served upon you, not including the day of service. If you fail to do so, a judgment by default may be taken against you for the relief demanded in the Complaint.

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20\_\_

TEMIKA D. GIPSON, Clerk / W. AARON HALL, Clerk and Master By: \_\_\_\_\_, D.C.

RETURN OF SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE SERVED THE WITHIN SUMMONS:

By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ M. a copy of the summons  
and a copy of the Complaint to the following Defendant \_\_\_\_\_  
at \_\_\_\_\_

\_\_\_\_\_  
Signature of person accepting service

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process

RETURN OF NON-SERVICE OF SUMMONS

I HEREBY CERTIFY THAT I HAVE NOT SERVED THE WITHIN SUMMONS:

To the named Defendant \_\_\_\_\_  
because \_\_\_\_\_ is (are) not to be found in this County after diligent search and inquiry for the following  
reason(s): \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Sheriff or other authorized person to serve process



**The Shelby County, Tennessee Circuit Court**

**Case Style:** JESSICA CLIPPINGER VS STATE FARM PROP AND CAS CO  
**Case Number:** CT-1844-20  
**Type:** SUMMONS ISSD TO MISC

Kathryn Howard, DC

Electronically signed on 05/08/2020 02:13:16 PM



## CT-1844-20 : JESSICA CLIPPINGER VS STATE FARM PROP AND CAS CO

CIRCUIT COURT

**Case Number** CT-1844-20**Case Type** BREACH OF CONTRACT**Opened** 05-08-2020**Status** INITIATE**Plaintiff**

JESSICA CLIPPINGER et al

**Defendant**STATE FARM PROPERTY AND CASUALTY  
COMPANY et al**Judge**

HONORABLE ROBERT S WEISS - Division 30CX

**Amt. of Claim**

\$301.70

**Jury/Non Jury**

Jury

[+ Show/Hide Participants](#)[Click here to access documents for this case](#)**File Date****Case History**

06-17-2020 Court	SERVICE COMPLETE-PPS/OTHER - SUMMONS STATE FARM INSURANCE COMPANY 05/15/2020 COMM OF INSURANCE Filed by: Court
06-03-2020 Plaintiff	AMENDMENT - COMPLT - Amended Class Action Complaint Filed by: DAVID A MCLAUGHLIN
06-03-2020 Plaintiff	SUMMONS ISSD TO MISC - Summons as to Defendant State Farm -- COMM OF INSURANCE Filed by: DAVID A MCLAUGHLIN
05-08-2020 Court	PAYMENT RECEIVED - A Payment of \$301.70 was made on receipt CTCT562796. Filed by: Court
05-08-2020 Court	CATEGORY 1 FILING Filed by: Court
05-08-2020 Court	COMPLAINT FILED Filed by: Court
05-08-2020 Plaintiff	E-FILED -----COMPLAINT - Class Action Complaint Filed by: DAVID A MCLAUGHLIN
05-08-2020 Plaintiff	EXHIBITS - Exhibit 1 Filed by: DAVID A MCLAUGHLIN
05-08-2020 Plaintiff	SUMMONS ISSD TO MISC - Summons as to State Farm Property and Casualty Company comm of ins rta Filed by: DAVID A MCLAUGHLIN

IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

---

JESSICA CLIPPINGER, on behalf of  
herself and all other similarly situated,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendants.

Docket No. CT-1844-20

Division: VIII

JURY DEMANDED

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**NOTICE OF FILING NOTICE OF REMOVAL**

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**PLEASE TAKE NOTICE** that Defendant State Farm Mutual Automobile Insurance Co. hereby gives notice to the Circuit Court for Shelby County, Tennessee and David A. McLaughlin, attorney for Plaintiff, that Defendant filed a Notice of Removal of the above-captioned case with the United States District Court for the Western District of Tennessee on July 2, 2020. A true and correct copy of the Notice of Removal, without attachments, is attached to this Notice of Filing Notice of Removal.

Under 28 U.S.C. § 1446(d), the filing of this Notice effects the removal of this action, and the Court may proceed no further unless and until this case is remanded.



Dated: July 2, 2020.

Respectfully submitted,

LEWIS THOMASON

/s/ Christopher L. Vescovo

Christopher L. Vescovo

Attorney Bar Number: 014516

40 South Main Street, Suite 2900

Memphis, TN 38103

Telephone: 901.525.8721

Facsimile: 901.525.6722

Email: cvescovo@lewisthomason.com

*Attorneys for Defendant State Farm Mutual  
Automobile Insurance Co.*

**CERTIFICATE OF SERVICE (CM/ECF)**

I HEREBY CERTIFY that on July 2, 2020, a copy of the foregoing pleading has been served with via email and/or U.S. Mail as follows:

David A. McLaughlin  
RAINWATER, HOLT & SEXTON, P.A.  
254 Court Avenue, Suite 209A  
Memphis, TN 38103

Hank Bates  
Tiffany Wyatt Oldham  
CARNEY BATES & PULLIAM, PLLC  
517 West 7<sup>th</sup> Street  
Little Rock, AR 72201

/s/ Christopher L. Vescovo

Christopher L. Vescovo

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Tenn. Class Action Alleges State Farm Applies 'Arbitrary' Deductions to Payments for Total Loss Claims](#)

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